

ACS RECONCILIATION PROTOTYPE:

A Guide to Compliance

Version 3.0
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**U.S. Customs Service
Office of Field Operations
Trade Programs
Reconciliation Team**

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A Note on Changes to Version 3.0

This Version 3.0 of the ACS Reconciliation Prototype Operations Guide updates and amends Version 2.0 which Customs published in February of 2000. Many of the changes contained in this Guide were announced in the March 13, 2001, Federal Register. These changes include a reduced data requirement for aggregate no-change reconciliation entries, a fee-for-service program for ordering reports of flagged entries, and a new diskette labeling procedure. In order to fully update and improve the guide, we solicited the knowledge and experience of Customs and trade personnel who have worked closely with the prototype since its inception. The March 13, 2001, Federal Register notice is included in its entirety in the appendixes.

I. Introduction

Throughout the design and implementation of the Automated Commercial System (ACS) Reconciliation Prototype, Customs has interacted with the trade community to devise a method of addressing outstanding issues involving post-entry adjustments. This guidebook, which is in its third version, is intended to provide a comprehensive look at the reconciliation process. It contains updated information on the ACS Reconciliation Prototype, which commenced on October 1, 1998.

Since the prototype's inception, more than five million entries have been flagged and thousands of actual Reconciliations have been filed. Along the way, various modifications to policies and procedures have been made. In addition to background and basic information, this guidebook contains all of the current policies referenced in various trade bulletin notices and the Federal Register notices published on July 21, 1999 (64 FR 39187), December 29, 1999 (64 FR 73121), and March 13, 2001 (66 FR 14619).

A. Background

The business realities of global trade are constantly changing. Customs must also change to address those realities. The increasing complexity of trade means more joint ventures, more intricate import transactions, and other situations that were not envisioned during the drafting of many laws. For years, Customs ACS has allowed importers and brokers to submit entry summaries electronically. However, a portion of entry summaries contain indeterminable information. More and more transactions involve final adjustments to an import price that may not be known until months after the merchandise is purchased and imported. Filers and ports previously made their own special arrangements to reduce the administrative burden of such adjustments. However, these local, informal versions of "reconciliation" were problematic because they varied a great deal from place to place, often had no legal basis, and lacked adequate financial controls.

In late 1993, the Modernization Act (Mod Act) was enacted, providing legal authority for reconciliation and addressing recordkeeping requirements and concepts such as "reasonable care" and "shared responsibility." Specifically, the Mod Act enhances the entry summary process by allowing indeterminable information to be identified and provided to Customs at a future time. This reconciliation process, implemented as the ACS Reconciliation Prototype, was announced and subsequently refined in the following Federal Register notices:

- **63 FR 6257 — February 6, 1998 (replaces previous notices).**
- **63 FR 44303 — August 18, 1998 (modifications and clarification).**
- **64 FR 39187 — July 21, 1999 (amendments).**
- **64 FR 73121 — December 29, 1999 (modifications and clarification).**
- **65 FR 55326 — September 13, 2000 (extended prototype indefinitely)**
- **66 FR 14619 — March 13, 2001 (modifications)**

The Federal Register published on February 6, 1998, replaced the previous notices regarding reconciliation and therefore is the current starting point for the Reconciliation Prototype. This guidebook supplements the February 6, 1998, Federal Register notice and subsequent revisions and modifications thereto.

Title VI of the North American Free Trade Agreement (NAFTA) Implementation Act (the Act), Pub. L. 103-182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs mod

ernization (107 Stat. 2170). Subtitle B of Title VI establishes the National Customs Automation Program (NCAP)—an electronic system for processing commercial importations. Section 637 of the Act amended section 484 of the Tariff Act of 1930 to establish a new subsection (b), entitled Reconciliation, as a planned component of NCAP. Section 101.9(b) of Customs Regulations (19 CFR 101.9(b)) provides for the testing of NCAP components. (See TD [Treasury Decision] 95-21.) This test of the prototype is established pursuant to those regulations.

The ACS Reconciliation Prototype is a step toward enhancing processing capabilities and repairing problems. Because local methodologies are seriously disadvantaged in their ability to respond to the growing complexities of processing international trade, Customs law mandates the use of one of only two methodologies for post-summary adjustments. Either each import shipment must be separately appraised and adjustments applied to individual entries, or the ACS Reconciliation Prototype must be used. With those limited options in mind, Customs has worked very closely with the trade community to design a prototype that will benefit all and will alleviate the burdens of entry-by-entry processing. The Reconciliation Prototype is national in scope, and its success will be determined by its ability to deliver a legal, financially reliable, and efficient process. With design of this prototype, Customs seeks to accomplish the following:

- Make progress under the reconciliation component of the Mod Act.
- Establish uniformity in an area that has operated under a variety of procedures.
- Provide financial safeguards.
- Institute a legal mechanism for reconciling entries.
- Streamline Customs and business processes.

The testing period for the prototype began on October 1, 1998, and was extended indefinitely beginning October 1, 2000.

The purpose of this guidebook is to present a comprehensive look at reconciliation and the benefits it will provide to both Customs and the trade community.

B. Overview

1. Concept of Reconciliation

Reconciliation allows an importer to revise certain elements of a summary entry that were indeterminable at the time the merchandise was entered. In the current prototype, such adjustments are limited to the following elements:

- **Value**
- **Harmonized Tariff Schedule of the United States (HTSUS) Heading 9802**
- **Classification (on a limited basis)**
- **Eligibility under the North American Free Trade Agreement (NAFTA)**

These elements are described in detail in chapter II of this guidebook.

The Reconciliation Prototype allows importers to file their entry summaries using the best available information and electronically “flag” estimated elements, with the mutual understanding that Customs will receive the actual information at a later date. Importers then provide the corrected information on a new type of entry called a Reconciliation.

Reconciliation may not be used to defer entry summary obligations, that is, to extend the ten-day summary period to fifteen months.

As an entry, a Reconciliation may be liquidated, rejected, or change liquidated. The liquidation of a Reconciliation can be protested, just as the underlying entry summary is liquidated and that liquidation protested. The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation and may be protested pursuant to 19 USC 1514. However, the protest may pertain only to the issue(s) flagged for reconciliation (i.e., the protest may not revisit issues previously liquidated on the underlying entry summaries).

2. Exclusive Means

The ACS Reconciliation Prototype will serve as the exclusive means for reconciling post-summary adjustments to dutiable value, and HTSUS Heading 9802 value. It may also be used to effect certain changes in merchandise classification affecting multiple entries. Adjustments made via a single Reconciliation result in a single bill or refund. Any party who elects to reconcile entries pursuant to 19 USC 1484(b) may do so only through this prototype. It will replace the processes of reconciling entry summaries under block appraisement/liquidation, in which the liquidation of one or several entries affects multiple entries for an entire period. Previous methods of accomplishing similar post-entry adjustments are no longer permitted. The prototype may also be used for processing post-import NAFTA refund claims under 19 USC 1520(d).

3. Alternatives to Reconciliation

(a) Withhold Liquidation

Importers retain the right to request the extension of liquidation of entry summaries as described in 19 CFR 159.12. Importers may still request, in writing, that Customs withhold liquidation on all

entries with unresolved issues and make adjustments to them individually. This prior notification that certain issues exist is essential to the demonstration of reasonable care. The reasonable care mandate requires that importers give their best estimates of declared value based on data available at that time, rather than using values that bear no relation to the reality of the transaction. Financial adjustments to each entry summary must be provided to Customs. If the withhold liquidation alternative is used, post-summary adjustments involving 9802 values must be filed within six months (or at the discretion of the port director) in accordance with 19 CFR 10.21.

(b) Supplemental Information Letter

If an entry summary needs correction after filing, the Supplemental Information Letter (SIL) may be used. The SIL can cover amendments that result in requests for refunds or the submission of additional monies owed prior to liquidation.

The SIL typically addresses amendments on elements that could have been determined at the time of entry, as opposed to issues that are reasonably indeterminable at that time. Filers who use SILs excessively may be judged as failing to exercise reasonable care and may be penalized. Customs will monitor the volume of SILs and will take appropriate action should excessive use be observed. See Appendix F for the SIL administrative message.

(c) Protests, Administrative Review, Etc. (19 USC 514, 520)

In accordance with 19 CFR 173 and 174, issues subject to protest, corrections of clerical errors, mistakes of fact, or inadvertences may continue to be resolved through existing procedures.

(d) Prior Disclosure

Existing procedures for prior disclosures will remain in force during the Reconciliation Prototype's test period. Importers must be aware of the distinction between prior disclosure and reconciliation. A prior disclosure covers situations in which the circumstances of a violation of 19 USC 1592 are revealed voluntarily. Pursuant to section 1592(c)(4), the person revealing the information must disclose the circumstances of a violation before, or without knowledge of, the commencement of a formal investigation of the violation. Under reconciliation, the importer is not disclosing a violation, but is identifying information that is indeterminable and is providing that information at a later time.

(e) Other Individual Entry Adjustments Allowed by Federal Regulations

Any other adjustments prescribed by federal regulations that involve individual entry appraisalment and liquidation of a given entry summary may still be utilized. For example, assist declarations may still be reported to Customs in accordance with 19 CFR 152.103(e)(1). Specifically, the total assist value may be apportioned over (1) the first shipment, (2) the number of units produced up to the time of the first shipment, or (3) the entire anticipated production. Periodic assist declarations, with a single check payment, covering more than one entry summary may be treated as attempted prior disclosures.

4. Eligibility for Participation

All importers may apply for participation in the ACS Reconciliation Prototype. Participants are not obligated to flag entries or file Reconciliations. However, flagging entries creates certain obligations that will be described elsewhere in this handbook.

There is no special form for requesting participation in the prototype testing. Customs will accept a standard letter from the importer (or power of attorney) with information such as importer number, descriptions of the specific issues and merchandise involved, ports of entry used, and so on. The complete requirements for application are available on the Customs web site,

www.customs.gov/recon, or in the February 6, 1998, *Federal Register* notice. Please send your applications to the following address:

Reconciliation Team
U.S. Customs Service
1300 Pennsylvania Avenue NW
Room 5.2B
Washington, DC 20229

Fax: (202) 927-1096

Applications will be accepted throughout the prototype test period. It is advisable to apply for participation thirty days prior to the desired start date.

There are two basic eligibility criteria:

1. Participants must file the applicable underlying entry summary and Reconciliation electronically via ABI.
2. Adequate bond coverage must exist for the Reconciliation. Participants must have a rider and a continuous bond, which will be obligated on the underlying entries and used to cover the Reconciliation. Filers must submit a copy of the bond rider with their application to participate; otherwise, Customs will not allow any entries to be flagged. The original bond rider must be filed at the port where the continuous bond is filed. (See Section II for detailed bond information.)

II. ACS Reconciliation Process

The ACS Reconciliation process is divided into two main steps: (1) flagging entry summaries and (2) filing Reconciliations.

When an importer files an entry summary and certain elements remain undetermined, the entry summary is flagged (either individually or via a blanket flag), thereby providing Customs a “notice of intent” to file a Reconciliation. Reconciliation does not defer entry summary obligations. As noted, the importer must use reasonable care in filing entry summaries, even when they are subject to reconciliation.

When the information in question becomes available, the importer files a Reconciliation, which can cover up to 9,999 underlying entry summaries. The Reconciliation is due within twelve months of the import date of the first entry summary flagged for and grouped on a NAFTA Reconciliation, or within fifteen months of the entry summary date of the first entry summary for all other Reconciliations. When the Reconciliation is filed (prior to the end of twelve or fifteen months), payment of additional duties, taxes, fees, and interest (or claim for refund) is made. The Reconciliation is verified, processed, and liquidated.

A. Flagging Entry Summaries

Under the ACS Reconciliation Prototype, ABI is the required method of transmission. Entry summaries with outstanding issues are filed as normal, except that in the header record of the summary, an electronic flag specifies the issue or issues that are outstanding and thus notifies Customs of the importer’s intent to file a Reconciliation covering that entry summary at a later date. The flag also lets Customs know that an in-depth review of the summary may not be appropriate at that time.

Up to four issues may be flagged on an entry summary. Once an underlying entry is flagged, it may be liquidated for all other issues. For example, an entry flagged for value may be liquidated for changes made to an incorrect classification.

Flagging legally separates the issue(s) flagged from the entry summary, and such issues may only be addressed on the Reconciliation. For example, if an entry summary is flagged for value, a SIL should not be filed on that entry for any value issue, as no error in valuation is involved. The issue flagged is no longer addressable on the underlying entry. Once the true valuation of the goods on the entry is determined, the Reconciliation should be filed. Customs will not accept SILs filed in place of Reconciliations, except in cases of obvious clerical errors, such as giving value in foreign currency instead of converting it to U.S. dollars. SILs may also be used to address corrections to unflagged issues on the entry. This is especially true for adjustments of quantity or changes in classification for reasons not within the limited scope of the prototype.

1. Determining Entry Summary Eligibility

The following entry types are eligible for reconciliation under this prototype:

- Entry type **01**: Free and dutiable formal consumption entries.
- Entry type **02**: Quota/Visa consumption entries.
- Entry type **06**: Foreign Trade Zone (FTZ) consumption entries.

Entries containing merchandise subject to quota may be reconciled for all issues except classification. FTZ entries with Anti-dumping/Countervailing Duty (AD/CVD) merchandise are not currently

eligible for reconciliation under this prototype. In addition, if an FTZ entry has NAFTA issues, the importer must ensure that the product underwent no additional processing to make it qualify for NAFTA. That is, the product must have qualified for NAFTA in the same condition as the time it entered the FTZ.

(a) Reconcilable Issues

The ACS Reconciliation Prototype is not changing or replacing existing laws concerning reconcilable issues. It simply provides a new process for amending data that historically have been provided to Customs. Existing provisions of laws, regulations, and administrative rulings still apply, except to the extent the Prototype provides otherwise. The four elements subject to flagging under the prototype—value, HTSUS Heading 9802, classification, and NAFTA—are detailed below.

1. Value. The ACS Reconciliation Prototype is open to reconciliation of all value issues—assists; royalties; computed value; and any other factors affecting Customs valuation, such as indirect payments. Assists may continue to be reported outside the ACS Reconciliation Prototype under acceptable methods pursuant to 19 CFR 152.103.

2. Harmonized Tariff Schedule of the United States (HTSUS) Heading 9802. Reconciliations of this element refer to the value aspect of the 9802 provision. Importers may reconcile the estimated to actual values as well as the estimated to actual ratio of U.S. prefabricated components incorporated into the finished product. The 9802 provision allows a partial duty exemption on prefabricated U.S. components assembled abroad. The prototype should be used to process cost updates from estimates to actual figures, as well as for cases in which the actual value or ratio of U.S. components used was subject to change.

Example of 9802 ratio adjustment: An entry is filed and flagged for 9802 Reconciliation. This entry contains one line item in which the importer declares a value of \$1,000 under the HTS 9802008065 duty exemption for U.S. components and a value of \$2,000 under HTS 7701002030. During the reconciliation period, the importer was able to obtain a certificate of origin on a certain component used in assembling the same product, thereby substantiating U.S. origin. At the end of the period, assuming all other costs remained the same, the importer includes the actual U.S. component cost on the Reconciliation by declaring a reconciled value of \$1,100 under HTS 9802008065 and \$1,900 under HTS 7701002030.

Example of 9802 full value adjustment: This example assumes the same scenario as just described, except that the importer also realized an increase in labor costs of \$1,000 throughout the period. In this case, a full increase in value reflecting the increased labor costs and the additional U.S. component costs would be reported on the Reconciliation. Specifically, HTS 9802008065 would include the additional U.S. component cost (valued at \$100) and be reconciled to \$1,100, and HTS 7701002030 would be reconciled to \$2,900. The increase in labor costs would increase dutiable value, in this case HTS 7701002030.

A Customs Form (CF) 247 “cost submission” or similar format will continue to be accepted as supporting documentation for a Reconciliation, which is a new extended method of reporting these cost adjustments to Customs. Reconciliation does not replace the CF 247 or similar cost updates.

If a filer estimates 9802 content up front, the 9802 value exemption may be reconciled. An importer may *not* reconcile 9802 when the merchandise was entered during the period without claiming the 9802 provision. Some aspects of 9802, such as the textile “special regime” programs, may carry admissibility issues. Issues of admissibility are not allowed under this prototype. As with all data submitted to Customs, estimated 9802 values must be computed with reasonable care.

3. Classification. Classification issues will be eligible for reconciliation only when such issues have been formally established as the subject of one or more of the following:

- Pending administrative ruling (including preclassification rulings).
- Protest.
- Pending court action.

Reconciliation for other classification issues is not permitted, and Customs will monitor appropriate use of classification flags. Classification is used to determine that the product meets the criteria for admissibility into the United States, fulfills other government agencies' requirements, and is eligible for special trade programs. (See Alternatives to Reconciliation in Section I for methods of addressing non-reconcilable issues.)

An entry summary flagged for classification may have multiple line items, but only a portion of all the product HTS classifications pertain to issues that are pending an administrative ruling, protest, or court action. In this case, the *only* classification issues that are transferred from the underlying entry are those that meet the requirements of the prototype (i.e., the portion of products pending an administrative ruling, protest, or court action). The other (non-prototype) classification issues remain on the underlying entry and are addressable via the existing protest procedures (i.e., 19 USC 1514).

In the event that entries are flagged for classification when no allowable classification issues exist, the Reconciliation that closes out those entries must include classification in the issue code of the Reconciliation entry. However, no changes to any classifications from those entries should be made if there were no allowable classification issues.

4. North American Free Trade Agreement. A major benefit to NAFTA reconciliation is that the importer will receive one refund check per Reconciliation, which can cover up to 9,999 entries, rather than receiving individual checks for each corresponding entry, as occurs under existing procedures. Reconciliations for post-importation refund claims under 19 USC 1520(d) can cover an entire period of entry summaries and may include multiple ports. Outside the prototype, the existing petition procedures outlined in 19 USC 1520(d) will still be used.

NAFTA Reconciliations are subject to the obligations of 19 CFR part 181, subpart D. The importer must possess a valid certificate of origin when making a NAFTA claim. Presentation of the NAFTA certificate of origin to Customs is waived for the purposes of this prototype, but the filer must retain this document and provide it to Customs upon request. The certificate of origin is covered by the recordkeeping provisions of Customs laws (19 USC 1509(a)(1)(A)). The three written statements required in 19 CFR part 181 should also be submitted with the reconciliation. They may be placed within the line item spreadsheet. [See 'Statements Required for NAFTA Reconciliations' on page 28.]

Interest shall accrue from the date on which the claim for NAFTA eligibility is made (the date of the NAFTA Reconciliation) to the date of liquidation or reliquidation of the Reconciliation.

As with traditional 520(d) claims, the prototype requires that merchandise for which NAFTA eligibility is not established at the time of summary be entered without the NAFTA claim. However, under the prototype, entries of such merchandise can be flagged for NAFTA reconciliation, and the NAFTA claim, if appropriate, will be made via the Reconciliation. Duties on imported merchandise must be paid at the time of summary in order to be eligible for a retroactive NAFTA claim.

(b) Non-reconcilable Issues

Issues that *can be* determined at the time of entry summary should *not* be addressed through the Reconciliation Prototype. Freight charges are an example of something typically known at summary. Quantity is not a reconcilable issue, as it directly affects admissibility, and by law reconciliation cannot address issues regarding admissibility. Customs realizes there is a business need for reporting landed quantity discrepancies and is looking into different ways of handling them. For the duration of this phase of the prototype, however, quantity is not a reconcilable issue.

2. Submittal of Flagged Underlying Entry Summaries

The flag accomplishes the following:

- Identifies indeterminable issues
- Transfers liability for those issues to a Reconciliation
- Permits the liquidation of the underlying entry summary as to all issues other than those that are transferred to the Reconciliation

By providing the flag as a notice of intent to reconcile, an importer is requesting that a certain issue or group of issues be separated from the entry summary. The importer requests and accepts that the issues identified in the notice of intent remain open and outstanding. The importer remains responsible for filing a Reconciliation and is liable for any duties, taxes, and fees resulting from the filing and/or liquidation of the Reconciliation (except in cases of NAFTA-flagged entries, where the filing of a Reconciliation remains optional).

A filer may flag entries via an individual entry flag or a blanket flag. Filers who use the individual entry flag (called the entry-by-entry flag in the earlier Federal Register notices) choose which entries are flagged for reconciliation, and for what issues. The importer flags the underlying entries on the header record of an entry summary at the time of filing via an ABI indicator, which will serve as the notice of intent. Any combination of the four eligible issues may be flagged on a given entry summary. An individual entry flag is input via ABI transmission by the filer.

The other method of flagging, the blanket flag (called the blanket application in earlier Federal Register notices), results in the same type of flag on the entry summaries; however, the flag is automatically input by Customs.

Importers who find that a large majority of their entry summaries require flagging may wish to provide their notice of intent by filing a blanket flag in lieu of individual entry flags. An importer may request a blanket flag in writing, specifying the following information:

- Importer number
- Blanket period or range of dates
- The issue(s) that will need flagging throughout the period indicated

When a blanket flag is used, the specified flags will be applied to every single entry summary filed, in every port, for that importer of record during that time period. This means that a Reconciliation will be due for each of those entry summaries. Importers are cautioned to request a blanket flag *only* when they are certain that every entry made with their IRS number will involve reconciliation issues. Since every entry is flagged regardless of port or broker, many importers find that outlying port entries involving a non-reconciliation issue are needlessly flagged with blanket flagging.

Please note the following:

1. Because of the limited scope of classification Reconciliation, blanket flag requests for classification issues will not be allowed by Customs.
2. An individual entry flag will override a blanket flag. If an individual entry flag is applied to a summary, ACS will treat that summary in accordance with that individual flag and will ignore the blanket flag.

Example 1: If an importer has an active blanket flag for value and during the blanket period submits an entry summary with an individual entry flag for NAFTA and value, the entry summary will be flagged for both. This will identify that the entry summary has an additional, reconcilable issue that is not part of the current blanket flag.

Example 2: If an importer has an active blanket flag for value and during the blanket period submits an entry summary with an individual entry flag for NAFTA, the entry summary will be flagged only for NAFTA because individual entry flags applied to a summary override blanket flags.

Activation of a blanket flag should be requested seven to ten business days before it is needed to take effect. Occasionally, some entries that are applicable to a recently submitted blanket flag request may require individual entry flags in order to meet time constraints (e.g., when Customs has not yet had time to activate the blanket flag).

Importers will be limited to one blanket per time period. Concurrent blankets will not be permitted. For example, an importer cannot have one blanket for value in effect for January through June and a separate blanket for value and NAFTA for March through August. However, an importer may have one blanket for value in effect for January through June and submit another blanket to continue from June through August for NAFTA in addition to value. Revisions to blanket flags are allowed. Care should be taken when submitting several revisions as Customs will honor only the most recent and will take seven to ten business days to put them into effect. Once a blanket flag is requested, importers are urged to verify with Customs that the flagging has been activated and is in effect.

Reconcilable issues and their corresponding flag codes appear below.

ISSUE	ACS FLAG INPUT CODES
Value	0 0 1
Classification	0 0 2
9802	0 0 3
Value + Classification	0 0 4
Value + 9802	0 0 5
Classification + 9802	0 0 6
Value + Classification + 9802	0 0 7
NAFTA	Yes/No

One underlying entry summary may have up to two Reconciliations—one for NAFTA and one for any combination of value, 9802, and classification.

3. Bond Information

Entry summaries flagged for reconciliation will require a valid continuous bond, which must be accompanied by a rider. The original, signed bond rider must be filed at the port where the continuous bond is filed. The rider must be signed by all principal parties and the surety to be valid. A copy should also be faxed to the Reconciliation Team at (202) 927-1096.

The rider shall read as follows:

By this rider to Customs Form 301 No. _____, executed on _____ by _____ as principal(s), importer no(s). _____, and _____ as surety, code no. _____, which is effective on _____, the principal(s) and surety agree that this bond covers all Reconciliations pursuant to 19 USC * 1484(b) that are elected on any entries secured by this bond, and that all conditions set out in section 113.62, Customs Regulations, are applicable thereto. The principal(s) and surety also agree that when an Aggregate Reconciliation under this rider lists entries occurring in more than one bond period, any liabilities to Customs reflected in that Aggregate Reconciliation shall be attributable (up to the full available bond amount) to any or all bond periods occurring during the time covered by the Aggregate Reconciliation for which any entries are listed.

Customs will not grant flagging capability to the filer(s) unless the importer has a valid continuous bond and a copy of a valid rider is on file with the reconciliation team. Adequate bond coverage as determined by Customs must exist. All underlying entries subject to one Reconciliation must be covered by one surety and one continuous bond. Two or more sureties cannot cover the same reconciliation. Changes in the language of the rider proposed by either the bond principal or surety will not be allowed.

Important: Termination of the existing continuous bond caused by a change in surety, change in liability coverage, cancellation, or expiration will deactivate the flagging capability by the ACS system, both individual and blanket. Note that changes to the continuous bond will affect the bond rider. When these changes necessitate a new bond rider, a copy of the bond rider should be faxed to the HQ Reconciliation Team at (202) 927-1096. Also, a change in surety companies covering an importer's entries will require separate Reconciliations under each surety.

4. Impact on Drawback Claims

The ACS Reconciliation Prototype allows for certain issues to remain outstanding pending filing of the Reconciliation. Because the information regarding these issues and the resulting liability for the duties, taxes, and fees previously asserted by the importer may change when the Reconciliation is filed, Customs will not accept drawback claims or certificates on underlying entries until the Reconciliation has been filed.

5. Requesting Flagged Entry Reports

Customs has developed a fee-for-service report system. Importers who wish to obtain reports of flagged entries for recordkeeping purposes may do so by contacting the Customs National Finance Center in Indianapolis, IN. The procedure is detailed in the March 13, 2001, Federal Register notice contained in Appendix E. Importers who wish to manipulate the report data further will need to obtain the delimited text version on electronic media. There is a nominal extra charge for this service. Examples of the reports appear in Appendix B.

B. Filing Reconciliations

A Reconciliation is a vehicle for finalizing outstanding information associated with previously filed entry summaries. Each Reconciliation will be limited to one importer of record; that is, the underlying entries and the Reconciliation must have the same importer-of-record number at the full suffix (eleven-digit) level. Programming limitations permit up to 9,999 underlying entries per Reconciliation. If more than 9,999 entries are being reconciled, more than one Reconciliation will be needed.

Reconciliation is to be used to group entries together for a common outstanding issue. Entries flagged for reconciliation that have the same outstanding information should be grouped on one Reconciliation; for example, entries flagged awaiting finalization of assist information should be grouped on one Reconciliation when the assist information is provided. A Reconciliation does not have to cover underlying entries in chronological order. Grouping by issue rather than by date can be done as long as the filing deadline for any entry is not exceeded.

Entries filed in Puerto Rico or the Virgin Islands. These must be addressed on separate Reconciliations. Reconciliations cannot combine underlying entries filed in Puerto Rico or in the Virgin Islands with entries filed at any other port. This limitation exists because revenue deposited on or refunded from entries filed in these two territories is handled differently. In each case, the monies are attributed to separate accounts.

1. Types of Reconciliations

Two types of Reconciliations may be filed: Entry-by-Entry and Aggregate. For both, the structure of the Reconciliation will include a header, association file, and summarized line item data spreadsheet.

COMPARISON OF THE TWO TYPES OF RECONCILIATIONS

	AGGREGATE	ENTRY-BY-ENTRY
HEADER (Transmitted via ABI)	a) Basic entry data b) Revenue Totals	a) Basic entry data b) Revenue Totals
ASSOCIATION FILE (Transmitted via ABI)	a) Underlying entries	a) Underlying entries b) Revenue change/entry
LINE ITEM DATA SPREADSHEET (Diskettes (two copies) + one hard copy)	a) One line for each [HTS/country/SPI/year]	a) One line for each [HTS/country/SPI/year]

(a) Entry-by-Entry Reconciliation

This Reconciliation is a detailed submittal in which the revenue adjustment is specifically provided for each affected entry summary. All applicable entries may be finalized via the Entry-by-Entry Reconciliation, and all adjustments made, including refunds of duties, taxes, and fees. The revenue adjustment will be broken down to entry-by-entry detail for all underlying entry summaries. After the Reconciliation has been filed, drawback may be claimed against the underlying entries and, if appropriate, the reconciled increase.

When a refund in duties, taxes, or fees is claimed, an Entry-by-Entry Reconciliation must be used in order for Customs to issue the refund.

(b) Aggregate Reconciliation

This option consolidates all entries covered in the Reconciliation and applies generally to those situations that involve an absolute increase. *Absolute increase* refers to changes or adjustments between line items on a given entry that result in an increase to the entry as a whole. That is, regardless of decreases on individual lines on entry A, if the whole change for entry A resulted in an increase in duties, taxes, and fees, it is considered an absolute increase.

Example: A given entry contains two line items. An assist was provided for product A reported on line 1, which resulted in an increase in duty. Currency fluctuations affected the value of product B reported on line 2, which resulted in a decrease of duty. Where products A and B are reported on the same entry and are both covered by a Reconciliation, the Reconciliation would have an absolute increase if the increase to product A is greater than the decrease to product B.

The Aggregate Reconciliation will include a list of all underlying entries but will not require the revenue adjustment to be broken down by entry. The importer waives any refunds, including claims for drawback, on the Aggregate Reconciliation increase except through a protest of the Reconciliation itself.

When increases *and* decreases between entries result at the end of the reconciliation period, the importer can exercise one of the following filing options:

- File an Entry-by-Entry Reconciliation to account for both the increases and decreases.
- Submit two separate Reconciliations: an Aggregate Reconciliation for entries with no change or revenue increase and an Entry-by-Entry Reconciliation for entries with a decrease in revenue.
- File an Aggregate Reconciliation to account for the increases, report the decreases on a separate section of the summarized line item spreadsheet, and waive the refunds resulting from the decreases.

Netting, on the other hand, is the principle that applies to changes or adjustments between different entries that offset one another. If netting is used to reach a net increase, the importer may not file an Aggregate Reconciliation, unless any refund amount is waived (see below).

Example: Entry 123 covers product A. Entry 456 covers product B. An assist was provided for product A, which resulted in an increase in duty. The value of product B was affected by currency fluctuations, which resulted in a decrease of duty. The increase on entry A and decrease on entry B may not be combined to offset each other as this would be considered netting. Instead, the importer must do one of the following:

- File an Entry-by-Entry Reconciliation to account for both the increases and decreases.
- File an Aggregate Reconciliation for entry 123 and an Entry-by-Entry Reconciliation for entry 456.
- File an Aggregate Reconciliation for both entries and waive the refund resulting from the decrease on entry 456.

Remember, absolute increases apply to whole adjustments made between two or more *line items on a given entry*. Netting refers to whole adjustments made between two or more *entries*.

Filing Aggregate for Decreases. An importer may choose to file an Aggregate Reconciliation for decreases (or downward adjustments) if the resulting refund of duties, taxes, and fees claimed are *waived*, thereby releasing Customs from liability. Although both increases and decreases may be reported on an Aggregate Reconciliation, they must be reported separately because of the prohibition against netting. On a separate section of the summarized line item data spreadsheet, the importer must certify the following immediately before listing the tariff items for the downward adjustments:

“The tariff items shown below are items for which the reconciliation adjustment resulted in a decrease of duties, taxes, and/or fees. On this Aggregate Reconciliation, we hereby declare these changes and acknowledge that we waive any claims for a refund of any monies due us as a result of these changes, release Customs of any liability for the refund, and certify that the changes shown below are not included elsewhere in the Reconciliation or netted against increases.”

When filing an Aggregate Reconciliation for decreases, the downward adjustments of the affected duties, taxes, and/or fees will be reported only on the summarized line item data spreadsheet and will *not* be included on the header file or in the ABI transmission. The downward adjustments are reported but not included in the calculation of the aggregate reconciled adjustment.

Filing an Aggregate for decreases is a voluntary option for importers. Any refunds to which the importer is entitled may be obtained by filing an Entry-by-Entry Reconciliation. Appendix B contains a sample Aggregate Reconciliation line item data spreadsheet showing how increases and decreases are reported in separate sections.

2. Time Frames

Reconciliations have due dates for filing, which are determined by dates on the earliest entry being reconciled. In order to make a claim for NAFTA eligibility, a NAFTA Reconciliation must be filed within twelve months of the date of importation of the oldest entry summary flagged for and grouped on that Reconciliation. Reconciliations covering all other issues are due within fifteen months of the date of the oldest entry summary flagged for and grouped on that Reconciliation. It should be noted that a NAFTA Reconciliation entry is not considered timely until *all three* elements that comprise a complete Reconciliation are received in the port. These three items (the transmitted ABI header and association file, along with the spreadsheet diskettes and accompanying paperwork) must arrive in good order on or before the statutorily mandated deadline (one year from earliest importation date).

Issues:	NAFTA*	9802, Classification, Value*
Reconciliation Due Date	12 months	15 months

*If the importer has flagged entries for NAFTA and determines later that the products did not qualify for the NAFTA preferential duty rate, a Reconciliation need *not* be filed, and no liquidated damages claims will be issued. All other flagged issues will require a Reconciliation, even if no adjustments are being reported.

No extensions will be allowed on the deadlines for filing Reconciliations. If elements of value, 9802, or classification remain unknown when the Reconciliation is due, the importer must submit a timely-filed Reconciliation with best available information or no changes, along with a written request explaining why liquidation of the Reconciliation should be withheld. If the importer justifies good cause on why the extension should be granted, Customs will issue a letter of approval to the importer to document the decision and the date of that decision. Changes to the Reconciliation entry itself may then be made once the information is obtained.

If the importer fails to satisfy good cause for the extension of time, Customs will issue a letter of denial to the importer to document the decision and the date of that decision. Customs will then liquidate the Reconciliation using the best available information, which may result in the payment of additional duties, taxes and fees. No such flexibility is allowed for NAFTA Reconciliation, in accordance with law. If no claim can be asserted within twelve months of import, no claim may ever be asserted.

3. NAFTA Issues

The one-year filing requirement for claiming duty refunds established under 19 CFR 181.31 still applies to NAFTA Reconciliations under the prototype. NAFTA issues may not be combined with other issues on the same Reconciliation. NAFTA requires its own Reconciliation. Only *one* NAFTA Reconciliation may be filed for a given entry summary.

As with traditional 520(d) claims, Reconciliation may be used only to make NAFTA claims on goods that had no such claim at entry summary. It is *not* to be used to claim NAFTA up front and to later disclose that the goods were not eligible.

An entry summary flagged for NAFTA may have multiple products, but only a few products may actually qualify for the status. In this case, *only* the NAFTA issues that pertain directly to those products originally entered *without* NAFTA benefits are transferred from the underlying entry to the NAFTA Reconciliation. On that same entry summary, other products originally entered with duties paid may still be addressed on a separate 520(d) claim, if found to qualify under NAFTA after the Reconciliation is filed and before the twelve-month limit expires. Since a maximum of one NAFTA Reconciliation is allowed on any one entry, additional NAFTA claims on that same entry must be handled outside the Reconciliation Prototype, under existing 520(d) procedures. If an entry summary is flagged for NAFTA, no traditional 520(d) claims may be filed prior to the filing of the NAFTA Reconciliation.

Example: On January 1, 1999, an importer flags entry 999 for NAFTA. This entry shows an invoice total for four different products, all with different HTS classifications: Product A is classified under 8414.80.9000, product B under 8483.30.8090, product C under 8607.19.9000, and product D under 9029.90.4000.

Entry 999

Line	HTS	Rate	Duty
001	8414.80.9000	2.0%	\$100.00
002	MX8483.30.8090	FREE	\$0.00
003	8607.19.9000	1.2%	\$50.00
004	9020.90.4000	3.0%	\$200.00

Scenario 1:

On June 1, 1999, a Reconciliation for NAFTA is filed on entry 999 for product A only. Assuming all other requirements are met, Customs may issue the refund of \$100 (free rate of duty under NAFTA for HTS 8414.80.9000) on this NAFTA Reconciliation.

Scenario 2:

Following the events of scenario 1, the importer determines on August 1, 1999, that product C qualifies for NAFTA. The importer would like to recover the duties originally deposited, but she or he may not file another NAFTA Reconciliation on entry 999. The importer must file a post-NAFTA import duty refund claim under a 520(d) petition to recover duties paid for product C under original entry 999.

Scenario 3:

In June 1999, a Reconciliation is filed for NAFTA on entry 999 covering products A, C, and D. Assuming all other requirements are met, Customs may issue the entire amount of duties deposited on entry 999. Note that the NAFTA issue regarding product B remains on the entry and does *not* transfer to the NAFTA Reconciliation filed on June 1, 1999. In other words, the NAFTA flag does not apply to product B; therefore, product B cannot be addressed on the NAFTA Reconciliation.

The filing of NAFTA Reconciliations is optional. NAFTA Reconciliations will not be accepted late, but no liquidated damages claims will be issued.

4. Liquidated Damages: Late-File and No-File Results

The liquidated damages claims described in this section apply only to entries flagged for the issues of value, HTS 9802, and classification. When an importer fails to file a Reconciliation for a flagged underlying entry that is not NAFTA-related within the allowable fifteen-month time frame, Customs will issue a claim for liquidated damages for a “no-file.” Reconciliations submitted late will result in liquidated damages claims being issued for a “late-file.” Reconciliations rejected and not retransmitted or resubmitted within the allowable time frame will be considered no-files and liquidated damages will be issued. If a Reconciliation is rejected and resubmitted beyond the given time frame, a liquidated damages claim for late filing of the reject will be issued. If the filer has been issued a Reconciliation no-file and submits the Reconciliation late but without payment, it is still considered a no-file and cannot be mitigated until payment for the Reconciliation is received.

In order to be valid and fully accepted by Customs, all Reconciliations must be submitted with all components (header, association file, and—when required—summarized line item data spreadsheet) and with payment (if appropriate). The filing of a Reconciliation is not considered complete until all these elements are received by Customs. The date of this completion is considered the Reconciliation filing date for the purpose of determining timeliness.

(a) Consolidated No-Files

A consolidated no-file is one liquidated damages claim issued per importer per month.

Example: Trucks Incorporated flagged thirty entries that were due for Reconciliation in March. Of the thirty, only twenty-four were closed out on a Reconciliation. During the first week of April, Customs checked to verify whether all flagged entries due for the month of March had been reconciled and discovered that six flagged entries had not been. Customs issues a consolidated no-file against Trucks Incorporated for those six unreconciled entries.

(b) Liquidated Damages and NAFTA Reconciliations

Liquidated damages will *not* be issued against a NAFTA Reconciliation that is filed late or is *never* filed.

If an entry flagged for reconciliation of NAFTA eligibility is not reconciled within the twelve-month time frame, the importer cannot make a NAFTA claim on that entry, but Customs is not missing any critical information. For this reason, Customs has decided to make the filing of NAFTA Reconciliations optional; no liquidated damages claims will result from failure to file NAFTA Reconciliations on time.

The other three issues (value, 9802, and classification) involve information that is critical to Customs operations. Timely Reconciliations for these issues are required whether or not any changes are made. Failure to file these Reconciliations on time will result in liquidated damages claims.

Drawback may not be claimed against entries for which there are outstanding flags, but Customs has implemented an automatic process to eliminate open NAFTA flags past the twelve-month due date. The filer has the following options:

1. File a NAFTA Reconciliation within the twelve-month time frame in order to claim any NAFTA refunds and enable drawback on the underlying entries.
2. Not file a NAFTA Reconciliation. If an entry is flagged for NAFTA and no Reconciliation is filed, drawback cannot be claimed on that entry until Customs ACS system automatically removes any unreconciled past-due NAFTA flags. This will occur thirty days after the original NAFTA due date.

5. Liquidated Damage Amounts

The following is a list of violations and the formulas that will be used in issuing liquidated damages.

VIOLATION	FORMULA
RECONCILIATION NO-FILE/ CONSOLIDATED NO-FILE (Flagged summary but no reconciliation filed by the 15-month deadline.) RECONCILIATIONS FILED LATE WITH NO PAYMENT WILL BE DEEMED AS "NO-FILE."	The assessed amount is the value of all flagged entries due during the calendar month, or the value of the bond if the value to the entries exceed the bond amount. Option 1 amount (\$100-\$500) offered when all flagged entries covered on the liquidated damages claim are properly reconciled.
RECONCILIATION LATE FILE (RECONCILIATION FILED AFTER 15-MONTH DEADLINE.)	The assessed amount will be double the duties, fees, taxes, and interest due on the entire Reconciliation or \$1,000, whichever amount is greater. Option 1 (\$100-\$500) depending on number of entries late on the liquidated damages claim.
RECONCILIATION MONEY NO-FILE (RECONCILIATION FILED WITH NO MONEY)	The assessed amount will be double the duties, taxes, fees, and interest due on a Reconciliation, or \$1000, whichever amount greater. Option 1 (\$100-\$500) amount offered only after all duties, taxes, fees, and interest have been paid.
RECONCILIATION MONEY LATE FILE (RECONCILIATION FILED TIMELY, MONEY SUBMITTED LATE)	The assessed amount is double the duties, taxes, fees and interest due on the entire Reconciliation, or \$1000, whichever greater. Option 1 (\$100-\$500) depending on number of entries late on the liquidated damages claim.

Impact of Liquidated Damages on Bonds

The issuance of large numbers of liquidated damages claims against an importer's continuous bond could place Customs at risk in trying to collect all of those claims in full because the bond could become "saturated." If the bond is saturated, i.e. the principal or surety has paid liquidated damages amounts up to the full value of the bond, then Customs would be precluded from any further collections against that bond and any outstanding unpaid claims for liquidated damages would have to be cancelled. If there is risk of bond saturation, the importer's reconciliation flagging capability may be withdrawn and the importer may be required to submit single entry bonds for further entry summaries. Once adequate bonding has been guaranteed, the importer's ability to flag entries for Reconciliation can be reestablished.

6. Flag Combinations

The ACS Reconciliation Prototype is dynamic in that it allows an importer to flag up to four issues at once on a given entry summary. However, a maximum of two Reconciliations may be filed on the same entry summary. A given Reconciliation must address the same issue(s) as coded on the flagged underlying entries. (For a list of flag issue codes, see Submittal of Flagged Underlying Entry Summaries on page 15.)

Example of combined flags (NAFTA + value + 9802):

Say an importer flags for NAFTA, value, and 9802 (ACS flag input code 005 and NAFTA indicator “Yes”) on a given entry. Assuming this is the only entry flagged within a twelve-month period and the product is determined to be eligible for NAFTA, the importer would need to file one Reconciliation for NAFTA (because NAFTA cannot be combined with other issues on a Reconciliation) and another for value and 9802. Value and 9802 (code 005) on an entry cannot be broken into two separate Reconciliations, whether or not NAFTA is also flagged, because code 005 is specific to value and 9802. The importer must reconcile both issues at the same time on the same Reconciliation.

7. Multiple Reconciliations

Because each underlying entry summary may be covered by up to two Reconciliations, the Reconciliations will be processed and liquidated in the order submitted. Therefore, filers should take into account any previous Reconciliation associated with the same underlying entry when filing the current Reconciliation. The reconciled amount or data submitted on the first Reconciliation should be used as the starting point, or the original amount, for the subsequent Reconciliation. The second Reconciliation will be processed using the reconciled amounts on the first Reconciliation.

Importers who have more than 9,999 entries to reconcile may file multiple Reconciliations at the same time and should indicate that they are doing so in the comments field of each Reconciliation. Filers should annotate in this field the Reconciliation entry numbers of the other associated Reconciliations; for example:

“This Reconciliation is part one of three. The other two Reconciliations are MM0-3243247-7 and MM0-3243248-5.”

Multiple Reconciliations of this type (needed because of the 9,999 entry limit) may use a common, shared, summarized line item data spreadsheet.

C. Structure and Submission of Reconciliations

A Reconciliation has the following three components:

- Header
- Association file
- Summarized line item data spreadsheet

The header and the association file are both transmitted electronically via ABI. However, the spreadsheet should be submitted on two disks and one hard copy. The Reconciliation will be a new entry type—09. For both Entry-by-Entry and Aggregate Reconciliations, the structure of the Reconciliation will include a header and an association file, as well as a separately delivered summarized line item data spreadsheet, when required. (See above Types of Reconciliation for a comparison chart listing the components of each type, on page 17.)

1. Header

The Reconciliation header record provides general information on the Reconciliation. In essence, it is a summary record containing items such as the Reconciliation entry number, the type of Reconciliation, and the issue(s) on that Reconciliation. The header record also includes the grand totals for duties, taxes, and fees, both original and reconciled. Importers who use the aggregate method to reconcile pure no-change entries (those underlying summaries that have *no* reportable change in value) are not required to transmit duties, taxes, and fees in the header. Only zeros need be entered into the money fields for this type of pure no-change Reconciliation. Importers should be mindful that Reconciliations involving value changes that have no revenue impact *cannot* be reconciled using this method. Full data must be transmitted in the header and a spreadsheet must be submitted. See No Reconciled Adjustments on page 27 for more detail. The header record data elements (except in aggregate no-change Reconciliations) are the same regardless of whether the Reconciliation is entry-by-entry or aggregate. (See Appendix B for a sample header record.) A paper copy of the header record (or screen print) must be submitted to Customs as part of the Reconciliation packet.

2. Association File

The major difference between Aggregate and Entry-by-Entry Reconciliation is the structure of the association file. At the very least, the association file contains a list of affected entry summaries previously flagged for Reconciliation and the code for the port where they were filed. In addition, for Entry-by-Entry Reconciliations, the association file will show monetary amounts with changes applied to each entry summary. (See Appendix B for a sample association file.)

The association file for both Entry-by-Entry and Aggregate Reconciliations contains a list of underlying entry numbers (*without* reference to Harmonized Tariff Schedule classifications) and ports of entry, which are grouped together on the Reconciliation.

For Entry-By-Entry Reconciliations only, the following elements are also required:

- The actual amount of fees (broken out by class code), duties, and taxes, deposited per underlying entry summary.
- The reconciled amount of fees (broken out by class code), duties, and taxes that should have been paid for each of the underlying entries, had complete information been available to the importer at the time of the original summary filing.

3. Summarized Line Item Data Spreadsheet

This third element of the Reconciliation will show, at a macro level, all substantive business changes reported in the Reconciliation. The line item data (including the data elements) must be presented in a standard format. (See the sample spreadsheet in Appendix B.) The data elements in the spreadsheet are the same for both Entry-by-Entry and Aggregate Reconciliations, and in each case, as mentioned, this data must be submitted via one hard copy and two floppy disks in commercial spreadsheet format (generic and text delimited). The reconciliation entry number corresponding to the spreadsheet should be noted electronically on the spreadsheet itself. See the examples in Appendix B. The diskette itself should be labeled with the Reconciliation entry number, importer of record number (generally the IRS tax I.D. number), and the calendar year or years covered by the spreadsheet contained on the diskette. Customs will provide one disk to Census and will retain the other disk and the hard copy for review and processing. Each Reconciliation line item will be consolidated for all of the underlying entries listed in the association file.

Each combination of HTS, country of origin, special program indicator (SPI), and calendar year of release (per Census requirements) should have a separate line. It is essential that the data be clearly broken out by calendar year of release on the spreadsheet, even if the reconciliation covers a fiscal period that overlaps two calendar years. In turn, each spreadsheet line will show the original and reconciled data. The original data are extracted from the rolled-up groupings of the entry lines from flagged entries, while the reconciled data are either input manually on a case-by-case basis or prorated automatically via formula. Keep in mind that prorated (or pro rata) adjustments may work in only some situations; pro rata adjustments must be based on values, not on duty rates.

Example of pro rata adjustments:

A company imports three products on numerous entries throughout a given year. These entries are flagged for value. At the end of the year it is determined that values were understated by 10 percent. Assuming these three products were imported proportionately throughout the year—that is, product 1, product 2, and product 3 were each responsible for one third of the entire volume imported—a straight pro rata adjustment could be used.

HTS	Original Value	Reconciled Value	Duty Rate	Add'l Duty
7704102050	\$20,000	\$22,000	10%	\$ 2,000
7705203030	\$15,000	\$16,500	5%	\$ 75
7712909030	\$30,000	\$33,000	FREE	\$ 0

In this example, the *actual* costs were 10 percent greater than the *standard* (or estimated) costs declared at entry summary. Since the change is a 10 percent increase across the board, each product's value on the spreadsheet can be increased by 10 percent; therefore, the overall adjustment is prorated against the original imports. This example is not always found in the real world,

but it depicts the methodology of computing pro rata adjustments. However, when costs are not proportionately allocated, straight proration would not be feasible. For example, if the product classified under HTS 7704102050 had an assist of \$3,800 that applied only to that product, the \$3,800 increase in value should only be added to that line, not prorated among all three products. In any case, each tariff number for which there are reconciled changes will have its own line on the spreadsheet. Also, if an assist were applicable to product 1, product 2, and product 3, and applicable to different shares of the total imported volume, a weighted proration based on the respective volumes may be a more appropriate method.

Fundamentally, the summarized line item data spreadsheet captures any adjustments that have an effect on reportable data elements declared throughout the reconciliation period *without* reference to the underlying entry numbers. Changes may be broken out into separate lines on the spreadsheet to accommodate the importer's accounting structure. For example, an importer using two separate suppliers for the same product may opt to report the adjustments on two separate spreadsheet lines.

(a) No Reconciled Adjustments

A summarized line item data spreadsheet is *not* required if changes in any reportable data elements have *not* been made to any of the entry summaries. Reportable data elements are those pieces of data that Customs and Census require to update their commercial databases. (See the sample summarized line item data spreadsheet in Appendix B for a listing of reportable data elements.) Therefore, if a change occurred to the value of a product, this information must be reported on a summarized line item data spreadsheet even if no changes to duties, taxes, or fees resulted.

Example: If an importer has been importing 100 percent of merchandise *free* of duty under NAFTA and realizes a 10 percent increase in value during the same cost period, he or she must complete a summarized line item data spreadsheet. Even though there was no change to duty, the original values need to be reconciled on the spreadsheet because value is a reportable data element. Specific products for which there are no reconciled adjustments to reportable data elements need not be reported on the spreadsheet. If there are no reconciled adjustments to any products and thus no need to file the spreadsheet, the importer *must* make the following note in the remarks section of the header record: "Spreadsheet is not provided because there are no adjustments to reportable data elements in this Reconciliation."

If no reportable data elements are being made to any of the underlying entry summaries, filers may wish to take advantage of the "aggregate no-change" method of reconciliation described on page 25. This type of reconciliation does not require any duty, tax, or fee information to be transmitted with the header, nor is a spreadsheet required. This allows for a less problematic Customs acceptance of the reconciliation and less work on the part of the filer.

(b) Classification Reconciliation Requirements

A Reconciliation of classification or HTS 9802 requires that the summarized data lines be connected to illustrate the respective shift in value from one HTS classification to another. This is necessary to allow potential auditing of the values from the original tariff to the reconciled tariff.

Example: An importer originally declares \$1,000 under HTS 9802 and \$10,000 under HTS 8536 on entry 123. After twelve months, the actual value attributable to the HTS 9802 exemption was determined to be \$2,000. Since HTS 9802 increased by \$1,000, the importer must connect the respective change in value to the dutiable HTS (in this example, HTS 8536). Therefore, the summarized line item data spreadsheet should indicate a reconciled value of \$2,000 under HTS 9802 and \$9,000 under HTS 8536. (See Appendix B for more examples.)

(c) Statements Required for NAFTA Reconciliations

Written notices containing the information described below are required—as applicable—for all 520(d) NAFTA claims and must appear on the Reconciliation of NAFTA eligibility. These notices are to be blanket statements pertaining to the entire Reconciliation as an entry, so one copy per Reconciliation will suffice. The statements may be provided as a text box within the spreadsheet or on paper submitted with the Reconciliation header/cover sheet.

- A declaration that the good qualified as an originating good at the time of importation and setting forth the number and date of the (Reconciliation) entry covering the good.
- Notification that the importer of the good did or did not provide a copy of the entry summary or equivalent documentation to any other person. If such documentation was provided, the statement must identify each recipient by name, Customs identification number, and address, and must specify the date on which the documentation was provided.
- A statement indicating whether the importer of the good is aware of any claim for refund, waiver, or reduction of duties relating to the good within the meaning of NAFTA Article 303. If the importer is aware of any such claim, the statement must identify each claim by number and date, and must identify the person who made the claim by name, Customs identification number, and address.
- Notification of whether any person has filed a protest or a petition or request for reliquidation relating to the good under any provision of law; if any action has been filed, the statement shall identify it by number and date.

4. Payment Methodologies and Physical Submission of Reconciliation

If the Reconciliation results in additional monies due Customs, payment may be made by any of the methods used for other entries—check, statement, or automated clearinghouse (ACH). Automated methods are preferable because they allow the filer to choose the actual payment date, which is helpful in calculating interest. In contrast, payments made by check are credited only when processed by Customs; the date of processing cannot be predicted, especially if the check is mailed. Also, check payments are more vulnerable to being lost in handling than are automated payments. If automated payments are used, Reconciliation payments should be made separately from other entries and payments to Customs.

Whether Reconciliations are sent by mail or courier, or are hand delivered, each Reconciliation packet should contain the following:

- Cover sheet with filer's point of contact in case of technical difficulties, and team number of relevant commodity specialist team (if known). This cover sheet should include point of contact information for both the filer and the importer of record, complete with email address and phone numbers of the relevant parties.
- Printout of Reconciliation header file (in triplicate if Reconciliation is filed with payment)
- Check or printout of automated statement
- Two diskette copies of summarized line item data spreadsheet (if changes are being made). Diskettes must be labeled with Reconciliation entry number, importer of record number (generally the IRS Tax Identification number), and the calendar year or years of release covered by the Reconciliation spreadsheet contained on the diskette.

- One printed copy of summarized line item data spreadsheet (unless waived by processing port)
- Any written statements that are applicable to the Reconciliation, such as those required for NAFTA claims (see page 28)

(Remember, if no spreadsheet is being submitted, a statement to that effect should be included in the Reconciliation package.)

****Diskettes that are unreadable or contain viruses will not be accepted and the Reconciliation will be rejected.****

5. Recordkeeping Requirements

Auditable and verifiable financial records must be the basis for any Reconciliation. Accordingly, the importer is required to maintain all records to support the Reconciliation in compliance with Customs recordkeeping policies. For audit purposes, the importer must also maintain a system of records that links the data in the Reconciliation with the importer's books and records. This documentation is not to be filed with a Reconciliation, but must be available to Customs upon request. Additionally, importers must work with their brokers to keep detailed records of entries flagged. See Requesting Flagged Entry Reports on page 16.

For example, Customs may, for verification purposes, ask the importer to break down a certain HTSUS/country-of-origin line by part number, contract number, and so on, and provide the documentation to support the change made at that level. The importer will have to track the adjustment to the entry if requested by Customs. Census may, in certain circumstances, request that the yearly change for a given HTSUS/country of origin/SPI be broken down to quarterly adjustments in order to capture seasonal fluctuations. The importer must clearly document how the information in the Reconciliation was derived. Supporting documents may include, but are not limited to, the following:

- CF 247—Cost Submission
- Detailed line-level spreadsheets
- Landed cost analysis spreadsheets
- Invoices, purchase orders, and contracts
- Documents supporting apportionment of assists in accordance with 19 CFR 152.103(e)

D. Payments/Refunds

All duties, taxes, and fees owed by the importer must be deposited via check or ACH at the time of *filing* the Reconciliation. Payments must include all interest due. Because the Reconciliation (type 09) is legally an entry summary, the normal ten-day window (between entry date and summary date) to pay duties does not apply.

If the Reconciliation is to be paid via automated statement, the data can be transmitted up to ninety days in advance; therefore, the payment due date can be estimated that far in advance. Once the payment due date is reached, the statement must be paid. As long as the payment due date is less than or equal to the Reconciliation filing date and both dates are within the fifteen-month deadline, the Reconciliation will be considered on time.

Refunds that result from a Reconciliation will be issued by Customs within thirty days of the Reconciliation's liquidation. Any interest owed the importer will be included in the refund check. A single refund check will be issued per Reconciliation.

1. Taxes and Fees

The ACS Reconciliation Prototype has changed certain procedures for determining fees. For Entry-by-Entry Reconciliations, all taxes and fees on each entry summary must be adjusted to show the correct amount for that entry summary.

On Aggregate Reconciliations, since monetary changes to individual entry summaries are not reported, adjustments to taxes and fees are reported on the summarized line item data spreadsheet, as follows:

- Taxes and fees applied to individual commodities (e.g., cotton fee, beef fee) will be adjusted by multiplying any increase in dutiable value by the rate associated with the tariff number for the product in question.
- For Harbor Maintenance Tax (HMT), the importer is responsible for determining and declaring the amount owed, based on any increase in dutiable value, for those products that were subject to HMT at the time of original entry summary.
- For the Merchandise Processing Fee (MPF), the importer is responsible for determining and declaring the proper fee due, based on any increase in dutiable value, at the MPF rate applied to the product at the time of filing the original entry summary. Because there is a maximum assessment of MPF for entry summaries, Customs will use the following formula to set the *maximum* MPF due on an Aggregate Reconciliation:

$(\$485 \times \text{number of entries covered by the Reconciliation that were subject to the MPF}) \text{ minus the amount of MPF already paid on those same entries when original entry summary was filed}$

The maximum MPF is not necessarily what Customs will require as payment. The formula is used to protect importers who have already paid maximum or near-maximum amounts of MPF on underlying entry summaries. Therefore, importers may either calculate MPF using this formula or calculate MPF on an individual entry basis. Importers may discover slight differences in reconciled MPF amounts when they compare MPF calculations for an Aggregate Reconciliation versus an Entry-by-Entry Reconciliation.

SUMMARY OF HOW TO COMPUTE TAXES AND FEES UNDER EACH TYPE OF RECONCILIATION		
TAXES AND FEES	AGGREGATE	ENTRY-BY-ENTRY
Harbor Maintenance Tax (HMT)	Dutiable Value Increase for those products that were subject to HMT at the time of original entry summary X HMT (0.125%)	On an individual entry basis.
Merchandise Processing Fee (MPF)	\$485 x (# of entries) Minus (total MPF originally paid) -OR- On an individual entry basis.	On an individual entry basis.

2. Determining Interest Due

Interest accrues on all Reconciliations that involve monetary adjustments, whether they are increases or decreases in duties, taxes, and fees. As mentioned, filers must include interest due Customs when filing the associated Reconciliation, and Customs will pay interest due importers upon liquidation of the Reconciliation.

Importers are required to determine the appropriate amount of interest due. Pursuant to 19 USC 1505(c), Customs uses the Internal Revenue Service (IRS) interest rates, published quarterly, to compute the accrual of interest applicable to ordinary entries and Reconciliations. When calculating underpayments of duties, taxes, and fees, the interest rate that was in effect at the time the duties were due for deposit must be used in applying the interest formula. For your convenience, the IRS quarterly interest rates, the actual interest formula, and illustrative examples are posted on the Reconciliation web site (www.customs.gov/recon).

(a) Interest Due Customs on Entry-by-Entry Reconciliations

Under Entry-by-Entry Reconciliations, the importer must calculate the interest amount due for each entry summary and report these adjustments via the association file. Specifically, interest accrues on underpayments from the date the original duties are required to be deposited to the date the Reconciliation is filed with payment. Interest accrues on overpayments from the date duties are deposited on the entry to the date of (re)liquidation of the Reconciliation.

(b) Interest Due Customs on Aggregate Reconciliations

Under Aggregate Reconciliations, the importer must calculate the total amount of interest due using a midpoint date. Specifically, the interest will be calculated from the middle point of the period covered to the filing date of the Aggregate Reconciliation.

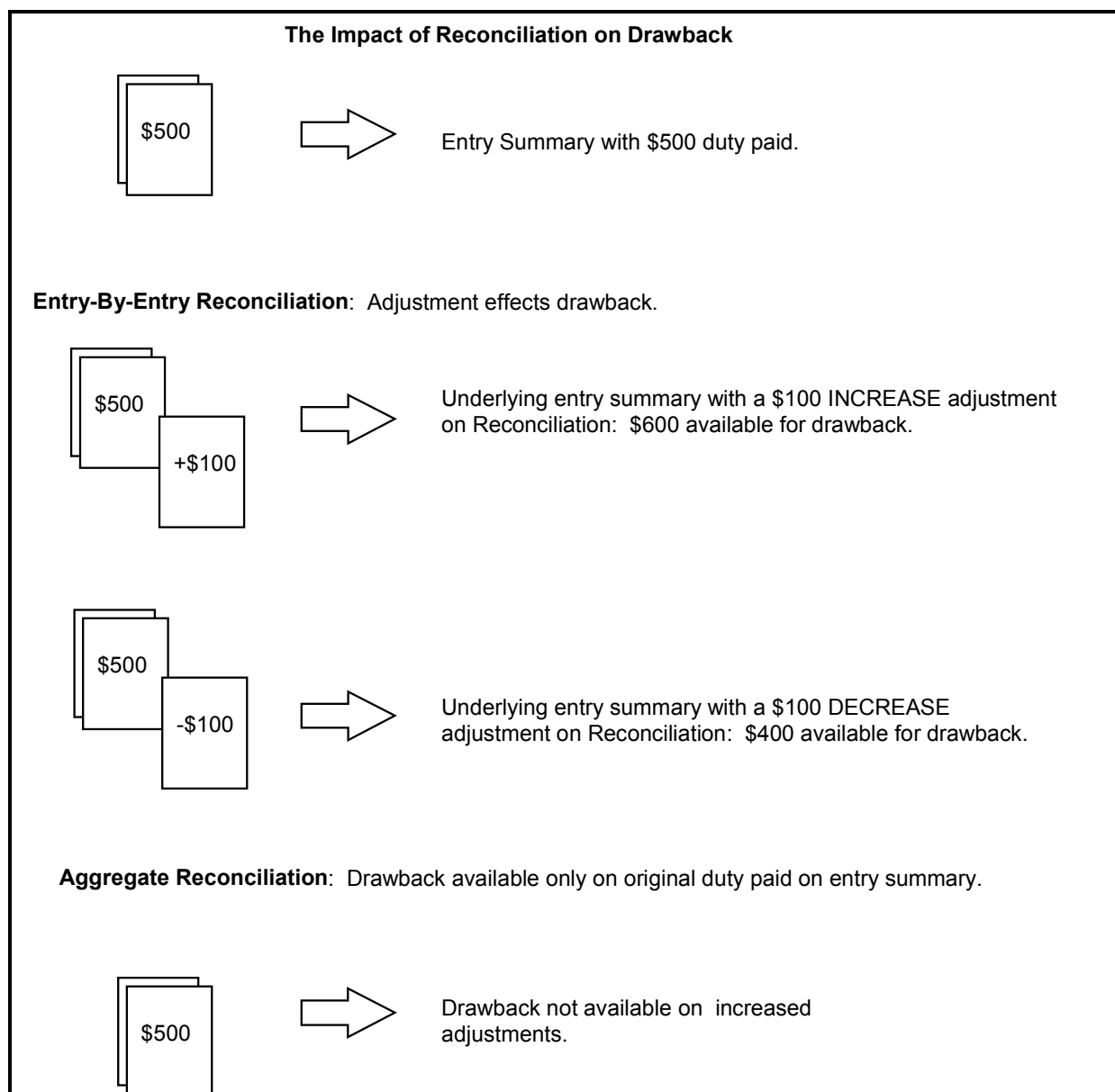
Example: An Aggregate Reconciliation filed on February 1, 2000, covering the period of January 1, 1999, through December 31, 1999, results in \$10,000 increased revenue due Customs. Interest is accrued from the midpoint date of July 1, 1999, through February 1, 2000, and is calculated on the principal amount of \$10,000.

	Entry-By-Entry		Aggregate	
Interest Questions	For Increases (Interest Due)	For Decreases (Interest refund)	For Increases (Interest Due)	For Decreases (Interest refund)
May the <u>Midpoint</u> interest calculation be used?	NO. Required to use entry-by-entry calculation based on the monetary changes and dates associated with each underlying entry summary.	NO. Required to use entry-by-entry calculation based on the monetary changes and dates associated with each underlying entry summary.	YES. Required to use midpoint based on the entire amount of adjusted revenue as if they had been done on the midpoint date of the period covered.	Not Applicable. Aggregate may NOT be used for decreases unless the importer chooses to waive all refunds.
May the <u>entry-by-entry</u> interest calculation be used?	YES. Required.	YES. Required.	NO. Midpoint must be used.	Not Applicable. Aggregate may NOT be used for decreases unless the importer chooses to waive all refunds.
What dates are used to compute accrued interest?	From the date duties are due on the entry to the date the reconciliation is filed w/ payment.	From the date duties are deposited on the entry to the date of (re)liquidation. For NAFTA: from the Reconciliation filing date to the liquidation date of the Reconciliation.	From the midpoint date of the period covered to the date the reconciliation is filed w/ payment.	Not Applicable. Aggregate may NOT be used for decreases unless the importer chooses to waive all refunds.
Who does the actual interest computation?	Importer/Filer	Customs	Importer/Filer	Not Applicable. Aggregate may NOT be used for decreases unless the importer chooses to waive all refunds.

3. Impact on Drawback

Customs will accept no drawback claims on underlying entries until the open Reconciliation flags have been resolved. After the Reconciliation has been filed, drawback may be claimed against the underlying entries and, if appropriate, the reconciled increase on an Entry-by-Entry Reconciliation. In the case of a drawback claim and a Reconciliation refund against the same underlying entries, the importer is responsible for ensuring that a claim for a refund in excess of the duties paid is not filed with Customs and for substantiating how the drawback and Reconciliation refund requests apply to different merchandise.

Drawback is paid on a per-entry basis; therefore, reconciled adjustments filed with aggregate data are not eligible for drawback. As the adjustment made pursuant to an Aggregate Reconciliation is not connected to specific entry summaries, it would be impossible for Customs to ensure that those duties were indeed entitled to drawback, and/or that the duty for which the drawback was claimed had not been previously refunded on the underlying entry summaries.



Example: If the duty paid on the underlying entry summary is \$500 and the overall reconciliation increase adjustment is \$100, the \$500 is eligible for a drawback refund. The \$100 is not eligible for a drawback refund. By opting to file an Aggregate Reconciliation, all participants understand that they waive their ability to claim a drawback or transfer drawback rights for the monies paid on an Aggregate Reconciliation.

E. Filing Locations

Certain ports are established as Reconciliation processing ports. While underlying entries may be filed at any port, the Reconciliation must be filed at the processing port assigned to the importer by Customs.

For purposes of filing the Reconciliation at the processing port, the broker permit requirement is suspended. (Contact your ABI representative for details.) This suspension pertains only to filing entry types 09—Reconciliation—entries, and not to any other Customs business transacted by brokers.

The ABI transmission of the Reconciliation must reflect the appropriate processing port and respective Reconciliation team on the header record. The filer should also submit a hard copy (i.e., screen print) of the header record, including remarks, as a cover sheet for the entire Reconciliation package.

The thirteen designated processing ports and team numbers appear in Appendix D.

F. Customs Acceptance and Processing

Customs will process Reconciliations as any other entry and according to the exceptions contained in this guidebook. Upon review and acceptance of the finalized data, Customs will schedule the Reconciliation entry for liquidation after ensuring the data submitted by the filer meets the requirements described below.

For an Entry-by-Entry Reconciliation, the following amounts should be reported for original duties and taxes:

- If the entry is liquidated, the liquidated amount
- If the entry is not liquidated, the paid/deposited amount

If there is a discrepancy between the underlying entry amount transmitted by the filer and the amount calculated by Customs, Customs will work with the filer to resolve the discrepancy. This may involve requesting copies of cash receipts if supplemental duties were deposited on the underlying entries.

Data contained within the Reconciliation will be handled, controlled, and safeguarded in accordance with the Trade Secrets Act of 1979.

1. Liquidation of Reconciliations

The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation. On matters of dispute, the importer may follow normal protest procedures (pursuant to 19 USC 1514) with regard to any decision pertaining to the liquidation of the Reconciliation.

(a) Extension of Reconciliation Liquidation

Liquidation of a Reconciliation may be extended for value, 9802, or classification if the importer can substantiate why the outstanding information is not available at the time of the Reconciliation filing deadline or upon Customs initiative. In this case, the Reconciliation must still be submitted, again with the filer's best estimate of the correct data and with any additional duties, taxes, and fees deposited. Customs recognizes that the best estimate may already have been presented on the underlying entry summaries. However, because of the complex nature of filing and rejecting Reconciliations, it is strongly recommended that importers request extensions *only* in extreme cases. Each request for extension will be evaluated and granted by Customs on a case-by-case basis. These requests are governed by 19 CFR 159.12(a)(ii). When such extension is requested, it should be done via a written request provided with the filing of the Reconciliation, and such request should describe the situation in order to show good cause.

(b) Retransmission of Adjusted Reconciliations

If an importer has been granted an extension and later finalizes the Reconciliation, the Customs processing port must be notified in order to reject the 09 (i.e., "best estimate") Reconciliation originally filed. The importer will then retransmit the adjusted Reconciliation. If differences occurred, the complete summarized line item data spreadsheet must be submitted to replace the original spreadsheet. Any additional monies resulting from a retransmitted Reconciliation must be paid via check.

Example: A Reconciliation is filed on time with a request for extension pending unresolved data. The data are finally resolved and the importer prepares an adjusted Reconciliation. How should the importer submit the adjusted Reconciliation?

If the original Reconciliation was filed as a no change: The original Reconciliation would have consisted of a header and association file without the summarized line item data spreadsheet. The filer would need to contact the processing port and request a reject on the original Reconciliation, after which the adjusted Reconciliation would be retransmitted and a complete spreadsheet provided. Any payments must be paid via check.

If the original Reconciliation was filed as a decrease (Entry-by-Entry) or increase (Aggregate): The original Reconciliation would have consisted of all three components. The filer would need to retransmit (after reject) the adjusted Reconciliation, including the complete adjusted spreadsheet. If the importer submitted an Aggregate Reconciliation with payment, then retransmitted an adjusted Reconciliation requesting a reduction in the amounts that were paid on the original Reconciliation, the adjusted document may still be filed as an Aggregate. However, if the importer filed originally as an Aggregate and retransmitted requesting a refund on the amount paid at time of summary, the retransmitted Reconciliation must be filed as an Entry-by-Entry Reconciliation in order for the importer to claim the refund.

(c) Extensions on Continuing Unresolved Classification Issues

For those cases in which classification issues remain unresolved beyond the fifteen-month filing limit (e.g., an ongoing court case), a Reconciliation must still be filed before the deadline and the importer must notify the Customs processing port team that the classification issue remains open. Depending on the circumstances of the issue, the classification Reconciliation may be handled in one of two ways:

- Customs may extend the liquidation of the classification Reconciliation until the matter is resolved, then liquidate as appropriate.

- Customs may liquidate the Classification Reconciliation in accordance with the contested classification. Within ninety days, the importer may file a protest against Customs decision to liquidate the reconciliation. This protest may then be suspended against the issue in question.

(d) Extensions on NAFTA Reconciliations

Importers may *not* extend NAFTA Reconciliations beyond the twelfth month from date of importation. This twelve-month period allowed for claiming NAFTA preference is the same as for 520(d) claims.

(e) Liquidation

After Customs has reviewed the Reconciliation and decided to liquidate it, the liquidation will take place within two weeks, similar to “change” liquidations of regular entry summaries. This two-week time frame applies, whether or not the Reconciliation is liquidated with changes. The 314-day liquidation cycle applicable to regular entry summaries does *not* apply to the Reconciliation Prototype.

2. Rejection of Reconciliations

Customs will reject Reconciliations for any changes that need to be made. If a Reconciliation is rejected and retransmitted, the filer *must* pay any additional money by check. Payments via automated statement will not be accepted.

If the Reconciliation is transmitted complete—that is, no additional documents are required—Customs has thirty days to review and reject it.

Any time a Reconciliation is rejected prior to the twelve/fifteen-month deadline, the importer has the remainder of the twelve/fifteen months or thirty days to resubmit, whichever is greater. If the deadline has expired, the importer has only thirty days to resubmit the rejected Reconciliation.

If additional documents are required, Customs will request them via a CF 28, and the importer will again have thirty days to provide the requested documentation. Once the additional documentation is received, Customs will review the submission within ninety days.

If two Reconciliations are filed for the same underlying entry, the second Reconciliation must be filed taking into account changes made to the entry via the first. If the first Reconciliation is in reject status at the time the second is filed, the filer should notify Customs of this fact via the Reconciliation’s comments field. Also, if the filer has not updated the second Reconciliation to correct the problems or omissions that caused the first to be rejected, Customs will reject the second as well, so that the filer can make the necessary updates.

III. Appendixes

Appendix A. Acronyms and Definitions

ABI

Automated Broker Interface. A computerized system that expedites the release of merchandise for the trade community. Entry summaries are electronically transmitted, validated, confirmed, corrected, and paid.

Absolute Increases

The principle by which changes or adjustments between line items on a given entry covered by the Reconciliation result in an increase or no change in duties, taxes, and fees to the entry as a whole. That is, regardless of decreases on individual lines on entry A, if the whole change for entry A resulted in an increase, the increase is absolute. On the other hand, where entries A and B are covered by a Reconciliation, the Reconciliation would have an absolute increase if both entries have increases or no changes. But if A increased and B decreased, even if A's increase is greater than B's decrease, this is *not* an absolute increase. (See Netting, below.) Only absolute increases are eligible for Aggregate Reconciliations.

ACE

Automated Commercial Environment. A system under development to support the new Trade Compliance process. ACE will enable process flow and information sharing within Customs and facilitate communication among Customs, accounts, and other government agencies.

ACH

Automated Clearinghouse. A computerized funds transfer system that enables firms to pay duties electronically. Companies authorize Customs to notify a specific Treasury-designated ACH processor to charge a firm's bank account for a specific payment amount. The payment is then electronically credited to the U.S. Treasury Department account. The debit to the payer's account will occur no sooner than the second business day following the accepted payment date. This process requires no collection input by the cashier.

ACS

Automated Commercial System. The electronic system used by Customs to track, control, and process all commercial goods imported into the United States. ACS facilitates merchandise processing, significantly cuts costs, and reduces paperwork requirements for both Customs and the trade community.

ADD

Anti-Dumping Duty. Duties on imported merchandise of a class or kind that is sold to purchasers in the United States at a price less than fair market value. Fair market value of merchandise is the price at which it is normally sold in the manufacturer's home market.

Aggregate Reconciliation

A Reconciliation filed with summarized data showing reconciled adjustments at an aggregate level. A list of the affected entries is required, but the revenue change need not be broken out according to individual underlying entries. Aggregate Reconciliations may be used only where all adjustments covered by the Reconciliation result in absolute increases in duties, taxes, and fees. Drawback is not available on the increased/reconciled adjustment.

CF

Customs Form.

CFR

Code of Federal Regulations. The body of general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. The Code is divided into fifty titles that represent broad areas subject to federal regulation. Each title is divided into chapters that usually bear the name of the issuing agency.

CVD

Countervailing Duties. Monetary assessments that counter the effects of subsidies provided by foreign governments to merchandise that is exported to the United States. These subsidies keep the price of such merchandise artificially low, which causes economic "injury" to U.S. manufacturers.

Entry-by-Entry Reconciliation

A Reconciliation in which the revenue adjustment is specifically provided for each affected entry summary.

Flagging Entries for Reconciliation

Alerting Customs that an entry summary is subject to reconciliation for a defined issue(s). Importers can flag individual entry summaries for reconciliation electronically via ABI (entry-by-entry flagging), which puts an indicator on each entry to be reconciled, or via a written letter that specifies a time period and issue for reconciliation (blanket application), in which case Customs puts an electronic indicator on *all* entries for that period.

FTZ

Foreign Trade Zone. A restricted access site in or adjacent to a Customs port of entry. An FTZ is operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Foreign Trade Zone Board and under supervision of the U.S. Customs Service. For purposes of tariff laws and Customs entry procedures, zones are treated as being outside the Customs territory of the United States. Under FTZ procedures, foreign and domestic merchandise may be admitted into zones for operations such as storage, exhibition, assembly, manufacture, and processing without being subject to formal Customs entry procedures and payment of duties, unless and until the foreign merchandise enters Customs territory for domestic consumption.

HMT

Harbor Maintenance Tax. A port use tax levied on imported cargo, Foreign Trade Zone admissions, passenger movements, and domestic shipments. Upon importation, commercial cargo loaded onto or unloaded from a commercial vessel is subject to a port use tax of 0.125 percent (.00125) of its value if the loading or unloading occurs at a port within the definition of 19 CFR 24.24.

HTSUS

Harmonized Tariff Schedule of the United States. Specification of the duty requirements and exemptions pertaining to goods imported into Customs territory and all vessel equipment, parts, materials, and repairs, as covered by the provisions of subchapter XVIII to chapter 98 of this schedule and prescribed in general notes 3 through 14 and general note 16.

Mod Act

Modernization Act (Title VI of the NAFTA Implementation Act). Established the National Customs Automation Program (NCAP).

MPF

Merchandise Processing Fee. A fee assessed for the processing of merchandise that is formally entered or released during any fiscal year. Currently, MPF is assessed at 0.21 percent (no MPF is assessed on NAFTA-qualifying merchandise from Mexico or Canada) of the dutiable value of the imported merchandise. There is a minimum fee of \$21.00 and a maximum fee of \$485.00.

NAFTA

North American Free Trade Agreement. A trilateral trade agreement among the countries of Canada, Mexico, and the United States.

NCAP

National Customs Automation Program. An electronic system for processing commercial importations.

NCAP/P

National Customs Automation Program Prototype. The Reconciliation Prototype effort for testing NCAP.

Netting

Situations in which increases *and* decreases result at the end of the reconciliation period. In any netting situation, the importer has the option of filing an Entry-by-Entry Reconciliation to account for both the increases and decreases, or dividing the Reconciliation into two pieces—an Aggregate Reconciliation for the increase and an Entry-by-Entry Reconciliation for the decrease.

Reconciliation

The process of allowing an importer to identify certain indeterminable information (other than that affecting admissibility) to Customs and to provide the outstanding information at a later date. Reconciliation also refers to the entry on which the outstanding information is provided.

SIL

Supplemental Information Letter. A mechanism for correcting errors to filed entry summaries. Importers can submit SILs regarding errors in issues under administrative review—clerical, classification, and valuation errors, for example—that result in requests for refunds or the submission of additional monies owed prior to liquidation.

SPI

Special Program Indicator. Designation of an entry summary line item as subject to a specific trade program (e.g., MX indicates NAFTA treatment for goods originating in Mexico).

Underlying Entry Summary

A consumption entry summary flagged for reconciliation.

USC

United States Code. Laws enacted by Congress. USC is divided into several segments called titles.

Appendix B. Examples

1. Header

SAMPLE RECONCILIATION HEADER

***Filer:** MM0 - Miracle Customs Brokerage
Reconciliation Entry Number: MM0-8801108-8
Processing Port: 8801
Commodity Team: 898
Recon. Type: ☐ Entry-by-Entry ☐ Aggregate
Recon. Filing Date: May 5, 2000
Reconciled Issues: Value, Classification, 9802
***Importer:** Durant Motor Corporation
Contact Name: Joe Smith, 202-555-1234
Association Count: 49 entries
Recon. Years: 1999-2000
Importer IRS No: 88-1234567JD
Date of Oldest: ☒ Summary (Value, Class., 9802) 10/1/1999
☐ Import Date (NAFTA) _____

Total Deposited Amounts on Underlying Entry Summaries:

Duty	(001)	\$3,422,020.63
MPF	(499)	\$ 23,762.00
HMF	(501)	\$ 82,942.86

Total Reconciled Amounts for Underlying Entry Summaries:

Duty	(001)	\$3,551,107.78
MPF	(499)	\$ 23,762.00
HMF	(501)	\$ 85,810.20

Total Amounts Paid with the Filing of this Reconciliation:

Duty	(001)	\$129,087.21
MPF	(499)	\$ 0.00
HMF	(501)	\$ 2,867.34
INTEREST		\$ 11,601.42

2. Association File

The association file for Aggregate Reconciliations will contain a list of entry numbers and the port codes for the ports at which the entries were filed. The association file for Entry-by-Entry Reconciliations will contain this same information as well as original and reconciled amounts for all duties, taxes, and fees, broken out by collection class code.

Sample Association File for Aggregate Reconciliation

Entry Num	Port Code	Entry Num	Port Code
MM-07913919-4	3301	MM0-7943550-1	4501
MM0-7914695-6	3001	MM0-7944782-5	4601
MM0-7916489-2	2904	MM0-7945470-5	5201
MM0-7916747-5	3001	MM0-7947187-5	1101
MM0-7920503-7	2704	MM0-7947648-0	1701
MM0-7920978-9	2809	MM0-7948972-0	2604
MM0-7922432-6	4701	MM0-7949675-7	2809
MM0-7922531-6	0712	MM0-7951306-9	2904
MM0-7923165-9	4101	MM0-7951937-3	3001
MM0-7923369-5	0401	MM07953106-9	3002
MM0-7924173-3	1101	MM0-7954607-5	3301
MM0-7924692-2	1701	MM0-7954819-5	3601
MM0-7924886-9	2809	MM0-7956015-9	4101
MM0-7925180-5	5204	MM0—795638-9	4501
MM0-7926959-3	3301	MM0-7956890-4	4601
MM0-7931822-0	1101	MM0-7957108-3	5201
MM0-7933523-8	1701	MM0-7957315-4	1001
MM0-7933824-2	2604	MM0-7957599-0	4601
MM0-7935697-7	2809	MM0-7957694-7	2709
MM0-7936691-0	2904	MM0-7957973-5	1301
MM0-7936861-7	3001	MM0-7958561-7	2305
MM0-7936886-5	3002	MM0-7958632-0	2704
MM0-7940815-4	3301	MM0-7958791-2	2809
MM0-7941030-6	3601	MM0-7958805-3	2904
MM0-7941623-0	4101		

3. Summarized Line Item Data Spreadsheet

The spreadsheet will not be transmitted via ABI; instead, it will be forwarded to Customs as two disks, using standard commercial spreadsheet or generic text delimited format, and one hard copy. The spreadsheet should reflect the reported changes at the macro level, broken out for each combination of calendar year of release, SPI, HTS number, and country of origin. Aside from these requirements, the spreadsheet may be organized or further broken out according to the importer's needs. The 'Port' field should always be reported, either with the specific port code for that tariff line or if more than two ports with the word 'ALL' ports. Customs goals in this matter are to have the data resemble the importer's accounting records as closely as possible, for the convenience of the importer and ease of review for Customs.

A sample summarized line item data spreadsheet appears on the following page.

1. Classification Requirements

Reconciliations for classification must include the data elements of quantity and port(s). (The ports may be reported using the first two digits; for example, port 4601 = 46.) If "ALL" is indicated in the port column, the change provided by that line applies to all ports in which the importer entered the subject merchandise.

2. HTSUS 9802 Data Requirements

Reconciliations closing any HTSUS 9802 issues must contain the port(s) covered (again, ports may be reported using the first two digits) and a link between the original data submitted and the reconciled data. Census needs to be able to capture the shift in value in order to know how to adjust the statistics for both the HTSUS chapter 1-97 provision and for the HTSUS Heading 9802 provision. Should the HTSUS Heading 9802 change result in a decrease in duties, taxes, and fees, the Reconciliation must be filed as an Entry-by-Entry Reconciliation.

DURANT MOTOR CORP. -- AGGREGATE RECONCILIATION PERIOD: 10/1/1999 THRU 3/31/2000: Recon Entry No. MMO-1234567-8															
Rec.Line	Cal. Year	Reason	Port	Origin	Original SPI	Rec. SPI	HTS	Original Quantity	Rec. Quantity	Original Value	Reconciled Value	Additional Value	Original Duty	Rec. Duty	Duty Change*
1	1999	Royalty	46	JP			4011101000			\$16,300,451	\$16,544,958	\$244,507	4.00%	4.00%	\$9,780.28
2	2000	Royalty	46	JP			4011101000			\$5,751,916	\$5,838,195	\$86,279	4.00%	4.00%	\$3,451.16
3	1999	Assist	46	MX	MX	MX	5704900090			\$685,231	\$721,548	\$36,317	2.60%	2.60%	\$944.24
4	2000	Assist	46	MX	MX	MX	5704900090			\$623,966	\$657,036	\$33,070	2.60%	2.60%	\$859.82
5	1999	R&D	46	KR			7007110010			\$3,201,101	\$4,601,298	\$1,400,197	5.60%	5.60%	\$78,411.03
6	2000	R&D	46	KR			7007110010			\$2,604,538	\$3,015,562	\$411,024	5.60%	5.60%	\$23,017.34
7	1999	9802	All	US			9802008065			\$7,801,810	\$6,943,611	(\$858,199)	0.00%	0.00%	\$0.00
7a	1999	9802	All	DE			8421394000			\$4,001,201	\$4,859,400	\$858,199	0.80%	0.80%	\$6,865.59
8	2000	9802	All	US			9802008065			\$6,537,984	\$5,818,806	(\$719,178)	0.00%	0.00%	\$0.00
8a	2000	9802	All	DE			8421394000			\$3,549,751	\$4,269,469	\$719,718	0.80%	0.80%	\$5,757.74
9	1999	Assist	46	EG	A	A	8804000000			\$961,000	\$1,037,880	\$76,880	0.00%	0.00%	\$0.00
10	2000	Assist	46	EG	A	A	8804000000			\$63,250	\$68,310	\$5,060	0.00%	0.00%	\$0.00
11a	1999	Class.	46	JP			4011105000	10000	2000	\$160,000	\$32,000	(\$128,000)	3.60%	3.60%	(\$4,608.00)
11b	1999	Class.	46	JP			4011101000	0	8000	\$0	\$128,000	\$128,000	4.00%	4.00%	\$5,120.00
* Duties, Taxes & Fees must be individually broken out for each Rec. line.															
												TOTAL ADJUSTMENT		\$129,087.21	

3. Sample Spreadsheet for Aggregate Decreases

Below is an example of an Aggregate Reconciliation spreadsheet where increases and decreases are reported in separate sections. The downward adjustments are reported but not calculated in the Reconciliation Adjustment.

[illegible]

4. Flagged Entry Report Examples

Importer Number/Ultimate Consignee

104/09/01

CS LQEXT1

088-1234567JD

REC
N TYPE

U. S. CUSTOMS SERVICE
LIQUIDATION EXTRACT REPORT
IMPORTER EXTRACT FOR FY 2000

PAGE1

OFY/	ENTRY	R D P	ENTRY	ENT	LIQ.	LIQ.	REC	BILL/REFUND	ENTER	DUTY	ADD/CVD	TAX	OTHER
FLR	NUMBER		DATE	TYP	DATE	TYPE	TYPE	AMOUNT	VALUE	LIQUIDATION	LIQUIDATION	LIQUIDATION	LIQUIDATION
OMMO	79435501	74501	012799	01	121099	NO CHG	VAL	.00	9,643.00	.00	.00	.00	25.00
OMMO	79519373	63001	043099	01	031000	NO CHG	VAL	.00	1,700.00	52.70	.00	.00	25.00
OMMO	79588053	52904	072899	01	060900	NO CHG	VAL	.00	88,205.00	.00	.00	.00	110.26
OMMO	79241733	51101	080299	01	061600	NO CHG		.00	180,774.00	.00	.00	.00	225.97
OMMO	79248869	52904	080499	01	061600	NO CHG		.00	235,370.00	.00	.00	.00	294.21
OMMO	79416230	52904	081199	01	062300	NO CHG	982	.00	128,178.00	.00	.00	.00	160.22
OMMO	79225316	51902	081399	01	062300	NO CHG	NFTA	.00	238,454.00	.00	.00	.00	298.07
OMMO	79231659	51902	081899	01	063000	NO CHG	NFTA	.00	188,289.00	.00	.00	.00	235.36
OMMO	79233695	51902	082399	01	070700	NO CHG	NFTA	.00	98,519.00	.00	.00	.00	123.15
OMMO	79241733	51902	082699	01	070700	NO CHG		.00	188,790.00	.00	.00	.00	235.99
OMMO	79246922	51902	090199	01	071400	NO CHG	CLA	.00	285,047.00	.00	.00	.00	356.31
OMMO	79248869	51902	090799	01	072100	NO CHG		.00	46,262.00	.00	.00	.00	57.83
OMMO	79251805	51902	091399	01	072800	NO CHG		.00	229,997.00	.00	.00	.00	287.50
OMMO	79269593	51902	091799	01	072800	NO CHG		.00	232,607.00	.00	.00	.00	290.76
OMMO	79318220	51902	092099	01	080400	NO CHG		.00	85,245.00	.00	.00	.00	106.56
OMMO	79335238	51902	092399	01	080400	NO CHG		.00	196,154.00	.00	.00	.00	245.19
OMMO	79338242	51902	092799	01	081100	NO CHG		.00	44,718.00	.00	.00	.00	55.90

VAL

Value only

982

9802 only

NFTA

NAFTA only

CLA

Classification only

VCL

Value & Classification

V98

Value & 9802

C98

Classification & 9802

VC9

Classification, Value & 9802

NVAL

NAFTA & Value

NCLA

NAFTA & Classification

N982

NAFTA & 9802

NVCL

NAFTA, Value & Classification

NV98

NAFTA, Value & 9802

NC98

NAFTA, Classification & 9802

NVC9

NAFTA, Classification, Value & 9802

1 REPORT ACSR-CL-050

UNITED STATES CUSTOMS SERVICE
AUTOMATED COMMERCIAL SYSTEM

PAGE 2

REQUESTED BY

REG 0
DIST 99
PORT 00 NATIONAL FINANCE CENTER
0 88-1234567BD DURANT ENGINE INC.
1300 STREET

OPEN BILLS AND UNLIQUIDATED ENTRIES
BY IMPORTER

RUN TIME 21:00:17
RUN DATE 04/09/01

EAST DURANTVILLE

VT 10888

Importer Number

0 NO OPEN ACCOUNTS RECEIVABLE
- NO UNLIQUIDATED FORMAL ENTRIES

1 REPORT ACSR-CL-050

UNITED STATES CUSTOMS SERVICE
AUTOMATED COMMERCIAL SYSTEM

PAGE 3

REQUESTED BY

REG 0
DIST 99
PORT 00 NATIONAL FINANCE CENTER
0 88-1234567JD DURANT MOTOR CORPORATION
8888 EIGHTH STREET

OPEN BILLS AND UNLIQUIDATED ENTRIES
BY IMPORTER

RUN TIME 21:00:17
RUN DATE 04/09/01

DURANTVILLE

VT 10888

Reconciliation
Indicator

REC N

0 NO OPEN ACCOUNTS RECEIVABLE
- UNLIQUIDATED FORMAL ENTRIES

0	PORT	ENTRY NUMBER	DATE	TYPE	SURETY	EST.	DUTY	EST.TAX	DUTY PAID	TAX PAID	FEES PAID	
0	ACME AIRWAYS	MMO79513069	01-29-01	CONS	AOK		0.00	0.00	0.00	0.00	0.00	
	TAZ COURIER	MMO79519373	09-08-00	CONS	AOK		0.00	0.00	0.00	0.00	0.00	
	TAZ COURIER	MMO79519373	09-15-00	CONS	AOK		0.00	0.00	0.00	0.00	0.00	
	HIGHGATE, VT	MMO79531069	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	123.20	VAL
	HIGHGATE, VT	MMO79546075	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	112.67	VAL
	HIGHGATE, VT	MMO79548195	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	120.90	VAL
	HIGHGATE, VT	MMO79560159	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	114.26	VAL
	HIGHGATE, VT	MMO79568904	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	127.32	VAL
	HIGHGATE, VT	MMO79571083	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	123.17	VAL
	HIGHGATE, VT	MMO79573154	05-30-00	CONS	AOK		0.00	0.00	0.00	0.00	116.71	VAL
	HIGHGATE, VT	MMO79575990	05-31-00	CONS	AOK		0.00	0.00	0.00	0.00	112.79	VAL
	HIGHGATE, VT	MMO79576947	05-31-00	CONS	AOK		0.00	0.00	0.00	0.00	129.57	VAL
	HIGHGATE, VT	MMO79579735	05-31-00	CONS	AOK		0.00	0.00	0.00	0.00	130.57	VAL

Appendix C. Frequently Asked Questions

Q: How do I tell Customs of my intention to reconcile?

A: There are two options: you may use either an individual entry flag or a blanket flag.

1. The individual flag is submitted electronically as part of the ABI header transmission of an entry summary. This flag identifies the indeterminable issue(s) subject to reconciliation. (Technical information on the ABI transmission is available on the Customs web site, at www.customs.gov/recon.)
2. The blanket flag is a written application for reconciliation submitted to Customs. It must specify the importer-of-record number, the period of time involved, and the indeterminable issue(s) subject to reconciliation. Customs then generates an electronic flag for *all* entry summaries filed within the specified scope. Should an importer wish to flag for reconciliation at a more detailed level (e.g., importer, time period, HTS), the blanket flag is not an option and the entries should be flagged on an entry-by-entry basis. The blanket flag must be received by Customs no later than seven working days prior to transmission of the first entry summary subject to the Reconciliation.

Q: What are the options for filing a Reconciliation?

A: Entry-by-Entry Reconciliation is available for increases and decreases. This option allows the filer to retain drawback privileges on both the underlying entries and the reconciled adjustment.

Aggregate Reconciliation may be used for increases or no-change reconciliations. Under this option, the filer retains drawback on underlying entries and waives drawback on the increased adjustment.

Q: May I file a Reconciliation for an aggregate decrease?

A: Yes, but you must waive all refunds resulting from the decrease. The decrease is reported *only* on the summarized line item data spreadsheet but is not calculated in the total Reconciliation adjustment. Customs must have financial safeguards to ensure that it does not refund more than is due. Refunds resulting from change liquidations, drawback, and so on are paid on an entry-by-entry basis. A refund from an Aggregate Reconciliation would not be associated with any entry, so Customs couldn't track whether it had already refunded money for a given entry.

Q: How are my drawback privileges affected by Reconciliation?

A: Drawback claims are not accepted on any entry that has been flagged for reconciliation until the Reconciliation is filed.

If you file Entry-by-Entry Reconciliation, you have full drawback privileges on both the estimated duties paid at time of summary *and* any increased adjustment resulting from the Reconciliation, once the Reconciliation is filed with duties, taxes, and fees deposited.

If you file an Aggregate Reconciliation, you have drawback privileges on all underlying entries upon filing the Reconciliation. You can never claim drawback on the additional amount you tender with the Reconciliation. For example, if the entered value on the underlying entry is \$1,000 and the overall Reconciliation increase adjustment is \$10,000, the \$1,000 is eligible for drawback once the Reconciliation is filed. The \$10,000 is not.

Q: Once I start flagging entries, how long do I have before I must file my Reconciliation?

A: Reconciliations for issues of value, 9802, and classification must be filed within fifteen months of the earliest summary date. NAFTA Reconciliations must be filed within twelve months of the earliest import date.

Q: Do I have to wait until the end of fifteen months to file my Reconciliation?

A: No. That's just the maximum time frame. If you have your data together sooner and want to file your Reconciliation at four months, for example, you may do so.

Q: Can an importer file two separate Reconciliations for the same time period—one for increases and one for decreases?

A: Yes. As mentioned above, NAFTA Reconciliations have a shorter time frame. They can be submitted separately. As for other issues, two separate Reconciliations may be filed for a time period (i.e., an Aggregate Reconciliation for increases and no-changes, and an Entry-by-Entry Reconciliation for requested refunds). However, a given entry summary must be dealt with only on *one* of the two Reconciliations. The Customs computer system will allow an entry summary to be reconciled *once* for NAFTA (if NAFTA was a flagged issue) and *once* for everything else (if issues other than NAFTA were flagged).

Q: There are many situations in which the quantity and classification of the merchandise changes after entry, even though I use reasonable care. Why can't reconciliation accommodate this?

A: Classification and quantity are two issues that are closely linked to admissibility. Customs is responsible for determining admissibility and cannot allow data changes that occur fifteen months after entry summary to impact its admissibility determinations. In some cases, the value of merchandise can legitimately be indeterminable at time of entry. However, except for those situations (binding ruling request, court action, etc.) in which the construction of law is in question, the physical description and quantity of an item are determinable, as is the actual quantity.

For situations in which classification or quantity does change, the importer is advised to follow the Supplemental Information Letter procedure. (See Appendix F)

Q: How are processing ports assigned?

A: Several factors are taken into consideration when assigning a Reconciliation to a processing port. Workload is one big factor. Other factors Customs considers are the port location where the majority of the entries are filed, the location where the flagged issues exist, the physical location of the company, and the location of the company's Customs account manager.

Appendix D. Processing Port Addresses

The ACS Reconciliation Prototype is nationwide in scope. Entry summaries filed at any port may be flagged for reconciliation, but the type 09 Reconciliation entry, which provides the reconciled information, must be filed to a Reconciliation processing port. Each importer participating in the prototype is assigned a processing port.

The components of the Reconciliation entry-header and association file-that are sent via ABI should be transmitted using the port code and team code of the importer's designated processing port. Before transmitting the Reconciliation, filers should make sure they know the proper processing port to which the importer has been assigned. The broker port permit requirement is waived for purposes of transmitting the type 09 Reconciliation. Filers who need to transmit a Reconciliation to a port where they do not have a permit should coordinate with their ABI client representatives to ensure they are able to transmit. The non-ABI components of the Reconciliation (e.g., the spreadsheet diskettes and supporting documentation) must be filed directly to the designated processing port. This may be done in person, or the materials may be sent via mail or overnight courier service to the designated address shown below:

BOSTON: U.S. Customs Service 10 Causeway Street, Room 613 Boston, MA 02222 Attn: Entry Branch Recon Desk (617) 565-6156 Port Code: 0401, Team: 1R2	MIAMI: U.S. Customs Service 6601 NW 25 th Street, Room 132 Miami, FL 33102 Attn: Entry Branch Recon Desk (305) 869-2685 Port Code: 5201, Team: 4R1
CHAMPLAIN: U.S. Customs Service 198 West Service Road Champlain, NY 12919 Attn: Entry Branch Recon Desk (518) 298-8331 Port Code: 0712, Team: 1R1	MINNEAPOLIS: U.S. Customs Service 330 2 nd Avenue S., Room 560 Minneapolis, MN 55401 Attn: Entry Branch Recon Desk (612) 348-1690 Port Code: 3501, Team 3R1
DETROIT: U.S. Customs Service 477 Michigan Avenue, Room 205 Detroit, MI 48226 Attn: Entry Branch Recon Desk (313) 442-0256 Port Code: 3801, Team 3RC	NEW YORK: U.S. Customs Service 1210 Corbin Street Elizabeth, NJ 07201 Attn: Entry Branch Recon Desk (201) 443-0100 Port Code: 1001, Team 2R1
EL PASO: U.S. Customs Service 3600 E. Paisano Drive, Bldg. B El Paso, TX 79905 Attn: Entry Branch Recon Desk (915) 872-3444 Code: 2402, Team: 6R3	NOGALES: U.S. Customs Service 200 N. Mariposa Road Nogales, AZ 85621 Attn: Entry Branch Recon Desk (520) 397-2050 Code: 2604, Team 6R4

HOUSTON: U.S. Customs Service 2350 N. Sam Houston Parkway E. Houston, TX 77032 Attn: Entry Branch Recon Desk (281) 985-6803 Port Code: 5301, Team: 6RT	OTAY MESA/SAN DIEGO: U.S. Customs Service 9777 Via De La Amistad, Room 121 San Diego, CA 92154 Attn: Entry Branch Recon Desk (619) 671-8109 Code: 2506, Team 7R1
LAREDO: U.S. Customs Service World Trade Bridge 715 Bob Bullock Loop Laredo, TX 78040 Attn: Entry Branch Recon Desk (956) 794-9300 Code: 2304, Team: 6R2	PHARR: U.S. Customs Service 9901 South Cage, Suite B Pharr, TX 78577 Attn: Entry Branch Recon Desk (956) 283-2025 Code: 2305, Team 6R5
PORTLAND: U.S. Customs Service 8837 N. Alderwood Road Portland, OR 97238 Attn: Entry Branch Recon Desk (503) 326-2882 Code: 2904, Team 7R2	

Appendix E. Federal Register Notices

The notice below augments the original notices published on February 6, 1998, August 18, 1998, July 21, 1999, and December 29, 1999. Participants should be familiar with all of the relevant Federal Register notices, as they provide the official rules of the prototype. All notices relevant to the prototype are posted to the Reconciliation website at www.customs.gov/recon.

MARCH 13, 2001 (66 FR 14619):

**DEPARTMENT OF THE TREASURY
U.S. Customs Service**

**Modification of National Customs Automation Program
Test Regarding Reconciliation**

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document announces several changes to the Customs Automated Commercial System (ACS) Reconciliation prototype test. They include a reduction of data required for “no-change” Aggregate Reconciliation entries, a new fee-for-service procedure for requesting reports of flagged entries, a modification of the liquidated damages provision, and a new diskette labeling procedure. In addition, the document discusses the continued use of the midpoint interest calculation for Aggregate Reconciliations. Other aspects of the prototype test not affected by the changes announced in this document remain the same.

DATES: The two year prototype testing period commenced on October 1, 1998, and was extended indefinitely starting October 1, 2000. Applications to participate in the prototype will be accepted throughout the duration of the test. The modification of the test’s liquidated damages provision and the new diskette labeling procedure set forth in this document are effective March 13, 2001. The effective date relative to the test’s reduced data requirement for no-change Aggregate Reconciliation entries and the fee-for-service procedure for flagged entry reports will be announced soon after publication of this document via an Automated Broker Interface (ABI) administrative message.

ADDRESSES: Written inquiries regarding participation in the prototype test should be addressed to Mr. John Leonard, Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave. NW, Room 5.2A, Washington, D.C. 20229-0001.

FOR FURTHER INFORMATION CONTACT: Mr. John Leonard at (202) 927-0915 or Ms. Sandra Chilcoat at (202) 927-0032.

SUPPLEMENTARY INFORMATION:**Background**

Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the North American Free Trade Agreement Implementation Act (the NAFTA Implementation Act; Pub. L. 103-182, 107 Stat. 2057 (December 8, 1993)), is currently being tested by Customs under the Customs Automated Commercial System (ACS) Prototype Test (also referred to as the prototype, test, or prototype test). Customs announced and explained the prototype test in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998, which replaced all previous notices. Clarifications and operational changes were announced in three subsequent **Federal Register** notices published on August 18, 1998 (63 FR 44303), July 21, 1999 (63 FR 39187), and December 29, 1999 (64 FR 73121). A **Federal Register** (65 FR 55326) notice published on September 13, 2000, extended the prototype indefinitely. For application requirements, see 63 FR 6257 and 63 FR 44303. Additional information regarding the prototype can be found at <http://www.customs.gov/recon>.

This document announces additional changes to the prototype. Except for these modifications, all other aspects of the prototype remain the same.

Reconciliation is the process that allows an importer, at the time an entry summary is filed, to identify undeterminable information (other than that affecting admissibility) to Customs and to provide that outstanding information at a later date. The importer identifies the outstanding information by means of an electronic "flag" which is placed on the entry summary at the time the entry summary is filed and payment is made. The kinds of information for which an entry summary may be "flagged" (for the purpose of later reconciliation) are limited and relate to: (1) value issues; (2) classification issues, on a limited basis; (3) "9802 issues," those concerning value aspects of entries filed under heading 9802, Harmonized Tariff Schedule of the United States (HTSUS)); and (4) NAFTA issues, those concerning merchandise entered under the North American Free Trade Agreement (NAFTA). The flagged entry summary (the underlying entry summary) is liquidated for all aspects of the entry except those issues that were flagged. The means of providing the outstanding information at a later date is through the filing of a Reconciliation entry. The flagged issues will be liquidated at the time the Reconciliation entry is liquidated. (See the February 6, 1998, **Federal Register** notice for a more detailed presentation of the basic Reconciliation process.)

Aggregate Reconciliation Entries and Reduced Data Requirements for No-Change Aggregate Reconciliation Entries

Aggregate Reconciliations Generally

The **Federal Register** notice published on February 6, 1998, set forth the two kinds of Reconciliation entries: (1) An Aggregate Reconciliation entry (or Aggregate Reconciliation) contains a list of the underlying entry summaries affected and the aggregate revenue adjustment relative to those underlying entry summaries; (2) the Entry-by-Entry Reconciliation entry (or Entry-by-Entry Reconciliation) shows the individual revenue adjustment for each underlying entry summary covered. In addition, that notice set forth that an Aggregate Reconciliation applies only to entry summaries showing either an increase (upward adjustment) or no change in duties, taxes, and fees. An Entry-by-Entry Reconciliation may include entry summaries that show a decrease (downward adjustment) in the amount of duties, taxes, and fees owed.

The **Federal Register** notice published on August 18, 1998, discussed the components of Aggregate Reconciliations (the Header, Association File, and Summarized Line Data Spreadsheet; the same as for Entry-by-Entry Reconciliations) and provided that in cases where a Reconciliation entry is filed with no adjustments to value or other reconcilable issues—that is, merely to satisfy the obligation to file a Reconciliation entry after entry summaries had been flagged, the spreadsheet need not

be provided. Importers were cautioned to be mindful of the distinction between true “no-change” Reconciliations (no adjustments) and Reconciliations where there are adjustments but no revenue implications. In the latter case, a spreadsheet is required.

The **Federal Register** notice published on July 21, 1999, provided importers the option to report entry summaries with a downward adjustment in duties, taxes, and fees through an Aggregate Reconciliation. These entry summaries must be listed separately from the upward adjusted and no-change entry summaries reported and must be accompanied by a certification that, among other things, waives any claims for refunds relative to these downward adjusted entry summaries.

Current Data Requirement for No-Change Reconciliations

A “no-change Reconciliation” is a Reconciliation entry covering only flagged entry summaries that do not show a change or adjustment at the time of Reconciliation (the filing of the Reconciliation entry). This kind of Reconciliation may be filed using either the Aggregate or Entry-by-Entry method. Which method to use for this specific type of Reconciliation depends entirely on the importer’s preference and/or software capabilities. These Reconciliations serve merely to “close out” flags on entries that were later found to require no adjustments at the time of Reconciliation. As noted above, no spreadsheet is required for this type of Reconciliation. Importers, however, must still provide information regarding the original duties, taxes, and fees paid on the underlying entry summaries covered in the Reconciliation when they transmit their Header and Association File via ABI. The Aggregate Reconciliation requires only the aggregate amount of original duties, taxes, and fees paid on the underlying entry summaries covered in the Aggregate Reconciliation entry, while the Entry-by-Entry Reconciliation must show the original amount of duties, taxes, and fees for each individual entry summary covered.

New Reduced Data Requirement for No-Change Aggregate Reconciliations

In order to further simplify the Reconciliation process, Customs will allow importers filing no-change Reconciliations by the Aggregate Reconciliation method to file the Reconciliation entry without the original duty, tax, and fee information. This document announces this modification to the prototype.

These no-change Aggregate Reconciliations, by definition, cannot include entry summaries showing upward or downward adjustments. Importers who wish to take advantage of this option must transmit zeros in the money fields for this type of Reconciliation. Transmission of the Association File is still required. This change will eliminate the redundancy of providing information that has been reported previously to Customs (on the flagged entry summary). It also will eliminate the expenditure of time and effort (by Customs and the trade) required to reconcile instances of disparity between filer (importer or its broker) information and Customs information on no-change Reconciliation entries. Customs believes that this change will greatly improve the prototype.

Customs emphasizes that this reduced data option is available only for no-change Reconciliations filed via the Aggregate Reconciliation method. ACS is not programmed to accept this type of reduced data, no-change Reconciliation via the Entry-by-Entry Reconciliation method. Therefore, no-change Entry-by-Entry Reconciliations must include the original duty, tax, and fee information for each entry summary covered.

The choice to use the Entry-by-Entry or Aggregate method to report no-change Reconciliations remains at the importer’s discretion; however, no-change Reconciliations reported via the Aggregate method must be transmitted as described in this document (zeros in the money fields). Customs strongly encourages importers to take advantage of this streamlined method. ACS is expected to be ready to accept the reduced data, no-change Aggregate Reconciliation entries in February 2001. The exact date will be announced via an ABI administrative message.

Fee-for-Service Procedure for Requesting Reports of Flagged Entries

The tracking and timely reconciliation of flagged entry summaries is the responsibility of the importer (and filer/broker). To assist the importer in this regard, Customs has been providing importers with reports of their flagged entries upon request. Additionally, Customs has been providing importers with monthly reports of flagged entries coming due during the following month (known as the "Heads-Up Report"). However, due to workload considerations, continued issuance of these flagged entry reports has become unsustainable.

Because Customs believes that a centralized, efficient clearinghouse for providing flagged entry reports is beneficial to both Customs and the Trade, it proposed an Internet-based lookup system in the December 29, 1999, **Federal Register**. This system was not developed but has been replaced with a fee-for-service procedure to be handled by Customs Accounting Services Division in Indianapolis, IN. Thus, this document announces the fee-for-service report procedure as a modification to the prototype. Customs believes that the announced fee-for-service procedure will be more efficient and provide a better product than in the past. Additionally, Customs will be properly reimbursed for manpower and computer time spent downloading and compiling these reports.

The new fee-for-service flagged entry reports are extensions of two reports Customs already provides: the Masterfile Extract and the Liquidation Extract. The Masterfile Extract reports all open bills and unliquidated formal entries. The Liquidation Extract reports all liquidated entries during a given fiscal year. Under the test, both reports will provide, among other things, dates of entry and entry summary; total duties, taxes, and fees paid on a given entry; whether the entry was flagged for reconciliation; and the particular issue or issues for which the entry was flagged (Value, Classification, 9802, NAFTA or a combination of these). Listed entries which do not reflect any flag data either were never flagged or the flags were already closed out on a previously submitted Reconciliation. Since flagged underlying entry summaries for a certain period may be liquidated or unliquidated, importers are encouraged to request both reports to maintain complete records.

Customs expects to be ready to issue these reports with Reconciliation information in February 2001. The exact date will be announced via an ABI administrative message. In the interim, the Reconciliation team will continue to provide the flagged entry reports upon request. When the fee-for-service report system becomes operational, the free reports currently provided by the Reconciliation team, including the "Heads-Up Report," will cease to be issued.

As stated before, the Masterfile Extract will list all open bills and all unliquidated formal entries, and the Liquidation Extract will list all liquidated entries for a given importer number during a given fiscal year (October 1 - September 30). Under the new procedure, requests for reports must be in writing on company letterhead and include payment for processing fees. They also must specify the Importer of Record Number (the IRS number).

The fees for Master File Extracts are as follows: \$150 for the first importer number; \$50 for the second importer number; and \$25 for each additional importer number.

The pricing for the Liquidation Extract is separate from the Master File Extract and is as follows: \$200 for the first importer number for a given fiscal year, plus \$50 for each additional fiscal year requested for that importer number; \$100 for the second importer number for a given fiscal year, plus \$50 for each additional fiscal year requested for that importer number; and \$75 for each additional importer number for a given fiscal year, plus \$50 for each additional fiscal year requested relative to those importer numbers.

In addition to requesting reports in letter form, importers can request that Customs furnish a report via computer diskette. If the importer requests that Customs furnish the report on both computer diskette and paper, an additional fee of \$50 will be charged. The written request, with payment in the form of a check made payable to the U.S. Customs Service, should be mailed to: U.S. Customs

Service, Accounting Services Division, ATTN: Collections Section, 6026 Lakeside Blvd., Indianapolis, IN 46278. Each request requires approximately one week from receipt to process. If further information or assistance is needed to determine charges, please contact Debbie Wolfley at (317) 298-1200, extension 1363.

Modification of the Liquidated Damages Provision

The liquidated damages process for non-filed and late-filed Reconciliation entries was announced in the December 29, 1999, **Federal Register** notice. This document announces a modification of the liquidated damages and mitigation guidelines for non-filed and late-filed Reconciliations.

The guidelines set forth the assessed liquidated damages amounts for each violation type and provide a mitigation amount for each violation, described as the "Option 1" amount. An importer may agree to pay the lower Option 1 amount and waive the right to further mitigate the claim below that amount. There are five types of liquidated damages violations under the prototype guidelines: (1) Reconciliation No File; (2) Reconciliation Money No File; (3) Reconciliation Late File; (4) Reconciliation Money Late File; and (5) Reconciliation Late File With Money No File. The new guidelines set forth their descriptions, assessed liquidated damages amounts, and "Option 1" amounts.

For administrative convenience, Customs has decided to drop the interest calculation (total duties, taxes, fees, and interest, if applicable, due on Reconciliation x number of days late x 0.1%) set forth in the December 29, 1999, **Federal Register** notice as a component of the Option 1 amount. Instead, the Option 1 amount under the new guidelines will be a flat amount (\$100 per entry to a maximum of \$500) based on the number of entries filed late. No relief will be afforded until all entries identified on a "Notice of Penalty or Liquidated Damages" form (CF-5955A) issued to the importer by Customs are reconciled. These new Option 1 amounts are effective on the date this document is published in the **Federal Register**. All other aspects of the liquidated damages process announced in the December 29, 1999, notice remain the same.

New Liquidated Damages Guidelines

1. Reconciliation No File

Description: Entry summaries flagged but no Reconciliation filed. Customs will issue a single consolidated liquidated damages claim for all entries fitting this description for a given importer, per month, per surety.

Assessed Liquidated Damages Amount: Total entered value of the underlying entry(ies).

Option 1 Amount: The filing of the Reconciliation entry (or entries) covering the flagged entry summaries listed on the consolidated liquidated damages claim (CF 5955A), with all applicable duties, taxes, fees, and interest owed, will be treated as a petition for relief. Payment of the Option 1 amount will be authorized only upon the proper filing of this Reconciliation, with duties, taxes, fees, and interest. For a consolidated monthly liquidated damages claim covering five or more flagged entry summaries, the Option 1 amount is \$500. For consolidated monthly claims involving four or fewer flagged entry summaries, the Option 1 amount is \$100 per entry.

2. Reconciliation Money No File

Description: Reconciliation filed timely but without payment of additional duties, taxes, fees, and interest due.

Assessed Liquidated Damages Amount: \$1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: Payment of the Option 1 amount will be authorized only after all duties, taxes, fees, and interest due are paid. For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

3. Reconciliation Late File

Description: Reconciliation filed and paid after the 15-month deadline.

Assessed Amount: \$1,000 or double the duties, taxes, fees, and interest, if applicable, due on the Reconciliation, whichever is greater.

Option 1 Amount: For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

4. Reconciliation Money Late File

Description: Reconciliation filed timely but payment of additional duties, taxes, fees, and interest due submitted late.

Assessed Amount: \$1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

5. Reconciliation Late File with Money No File

Description: Reconciliation filed late, without payment of duties, taxes, fees, and interest due.

Assessed Amount: \$1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: Payment of Option 1 amount will be authorized only after duties, taxes, fees, and interest due are paid. For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

New Diskette Labeling Procedure

The **Federal Register** notice of February 6, 1998, announced that, along with the ABI-transmitted Header and Association File, importers must submit line item data in both hard copy and commercial spreadsheet format via diskette. All aspects of the test concerning line item spreadsheets remain the same. This document merely addresses the labeling of the diskettes.

Starting on the date this document is published in the **Federal Register**, importers, per the Bureau of the Census, must label diskettes with the following information: Reconciliation entry number, importer of record number (generally the IRS Tax Identification number), and the calendar year or years covered by the Reconciliation spreadsheet contained on that diskette. For example, regarding the latter bit of information pertaining to calendar year, if the Reconciliation covers a fiscal year's worth of entries that were entered from October 1, 1999, through September 30, 2000, the diskette should be labeled "1999-2000," along with the Reconciliation entry number and the IRS number.

Continued Use of Midpoint Interest Calculation for Aggregate Reconciliations

The use of a midpoint interest calculation method was authorized for Aggregate Reconciliations when the Miscellaneous Trade and Technical Corrections Act of 1999 was signed into law on June 25, 1999. The law included a sunset provision of October 1, 2000. Use of midpoint interest calculation under the test was announced in the July 21, 1999, **Federal Register** notice. On November 9, 2000, the Tariff Suspension and Trade Act of 2000 was signed into law (Pub. L. 106-476; the Act). Under section 1451 of the Act, section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)), as amended, was amended to remove the sunset provision. Therefore, importers may continue to use the midpoint interest calculation method for Aggregate Reconciliations. Procedures regarding the use of midpoint interest remain the same as described in the July 21, 1999 **Federal Register** notice.

The ACS Reconciliation Prototype Survey

A Reconciliation Prototype survey was published on the Customs web site in order to solicit comments and suggestions from various entities of the trade community (see also **Federal Register** (65 FR 36505) notice published on June 8, 2000). The number of responses to this voluntary survey was minimal in comparison to the volume of importers approved for Reconciliation. A summary of the survey responses will be compiled and published on the Customs web site in the near future.

Date: January 31, 2001

Bonni G. Tischler
Assistant Commissioner
Office of Field Operations

Appendix F. Supplemental Information Letters

Date: August 1, 1997

File: ENT-1 FO:TC:C:E:O KD

TO: All Interested Parties

FROM: Director, Trade Compliance

SUBJECT: 314 day No Change Liquidation Cycle – “Supplemental Information Letters”

NOTICE:

On April 21, 1997, Customs extended its no change liquidation cycle to 314 days. Customs will permit filers to submit “supplemental information letters” prior to liquidation for the purpose of requesting corrections to entry summaries filed with Customs.

These “supplemental information letters” will cover issues that are protestable or should be considered under administrative review such as clerical, classification, and valuation errors which result in requests for refunds or the submission of additional monies owed prior to liquidation. The “supplemental information letter” must provide all the necessary information to process the refund or the submission of additional duties including a list of all associated entry summaries. Failure to do so will result in rejection of the “supplemental information letter.”

The “supplemental information letters” are not protests and do not have the same legal validity of protests.

Customs will review the “supplemental information letters” and will notate the letter either as agree or disagree. If the claim is agreed with it will be processed accordingly. If Customs disagrees the filer still has the option to wait until the entry liquidates and then file a timely protest.

Please note under the MOD Act filers are obligated to exercise reasonable care in filing entries. Accordingly, if a filer continually utilizes the supplemental information letters it may be an indication of a lack of reasonable care for which appropriate penalties maybe assessed. This program will be monitored for compliance.

For questions regarding this notice please contact Customs Field Ops, Cargo Control and Entry at (202) 927-0300.

Philip Metzger

